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THE CASE OF THE BANKERS And their CREDITORS, STATED and EXAMINED.

Wherein the **Property of the Subject** in this, and the like Cases, is soberly asserted, by the *Common and Statute Laws of* England, His Majesties most gracious *Declarations*; By innumerable, great and Important **Records** of this Kingdom, from the time of the **Norman Conquest** to our own Times; By the *Civil Law*, *History*, *Polity*, *Morality*, and *common Reason*: and all *Objections* undeniably Refuted.

As it was inclosed in a Letter to a friend, By a true Lover of his King and Countrey, and Sufferer for Loyalty.

The **Third Impression**, with Additions amounting to a third part more than hath been at any time before Printed.

Thos Turner

Ad Reges **potestas** *omnium pertinet, ad singulos* **Proprietas.** Seneca de Beneficiis, *Lib.* 7. *Cap.* 4. & 5.

Rex Angliæ neque per Se, aut Ministros suos, subsidia, aut alia quævis ONERA, *imponit Ligeis suis sine Assensu totius Regni sui in* PARLIAMENTO *suo expresso.* Lord Chancellor Fortescue, *de laudibus Legum Angliæ*, Cap. 36.

London: Printed in the Year 1675.

The Letter.

SIR,

IN Obedience to your Commands, I ha[illegible]nclosed herein some Notion [illegible] had conceived of the P[illegible] business, and the calamitous dependants thereon. I remember you thought me (though concern'd enough) pretty warm in this Argument [illegible]st time I discourst it with you, and truly if Hard [illegible]sages will make a wise man mad, the Effects [illegible]ey have upon a Fool (as I am) may well want a [illegible]ame. * I have I praise God in some measure wea[illegible]er'd out those dreadful Storms which fell some [illegible]ars since upon the Loyal party, (as you know) though [illegible]ith little less than the Shipwrack of my Person, and [illegible]state; and this (if I may speak it without Ostenta[illegible]on) I did with Constancy and Joy: for though I could [illegible] then nothing but Tempests and Hurricanes with[illegible]t me, yet my mind was alwayes refresh'd with Se[illegible]nities and Calmness, triumphing that I was thought [illegible]rthy at any rate, to suffer for so glorious a Cause. [illegible]fter his Majesties Happy Restauration, though neg[illegible]ted and despised, as many of far greater preten[illegible]ns than my self likewise were, we did All how[illegible]er possess our souls with patience (though (a) wise [illegible]en tell us, that it was never accounted the best Po[illegible]y, to dismiss well Deservers, with the satisfacti[illegible] only of their Consciences, and the rewards of the

* Filius est pars patris

(a) Plin. in Panegyric. ad Trajanum imperat. Lipsii polit. Lib. 4. Cap. 11. Raleigh's Prerog. of Parliament in fine.

the next World.) *And now when we and our m*
ſerable Families had thought to have protracted (
leaſt) a contemptible life with the poor Remainder
and broken pieces of our Fortunes, behold in o
moment thoſe alſo are raviſh'd from ſome of us by o
Friends. *And was it for* **This** *Sir that*
have ſuſtain'd Sequeſtrations, Impriſonment, a
Exile? *Was it for* **This** *that we have given a*
received Wounds *for the Crown of* England? *W*
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thers, *and* Children *have been Slaughtered in t*
day of Battel? Happy Natures! *ye Triumph*
Glory for your Loyalties, and yet (if Souls depart
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a little Bewail *our* Misfortunes; *and let it not ſee*
ſtrange to you, if my following Diſcourſes do n
and then ſound of Groans, Tragedy, *and* Lame
tation: *the Calamity of* **Our** *Caſe when conſide*
with all Circumſtances *will bear this, a*
much more. By what Name then ſhall I expreſs t
Treatment? ſhall I call it a violation of the W
dows Mite? a Robbery of the Shipwrackt? o
breaking into the Alms basket? no Sir, *theſe re*
it not, all Nature cannot furniſh me with a ſimi
tude.

Sir, *miſtake me not, I would not be thought h*
to lay ſo great a Calamity at the door of my dr
Soveraign (a Prince in his own free nature, and
forc'd inclination, not to be parallel'd for all Royal G
ces) no Sir, *the Law teaches me to conceive more*
(b) Pro. 16. *nourably of the King's* Juſtice (b) (by which
Throne is Eſtabliſh'd) *and tells me, that whatſoe*
(c) 2 Inſt. 589 *wrong is done to the Subject, is effected by miſin*
nations of his Majeſty, and pernicious * *Counſe*
(c) Bracton, lib. 1. cap. 9. Nihil aliud poteſt Rex in terris (ſaith (c) Brac
cum ſit Dei miniſter & vicarius, niſi id ſolum q

e jure poteſt. **The King can do nothing being he is God's Vicegerent, but that which he may lawfully do.** Rex hoc ſolum non poteſt facere, quod non poteſt injuſte agere (*ſay the* (d) *Judges in another Caſe*) **This one thing only the King cannot do, that he cannot do injuſtice** (*which yet is ſo far from impotency or imperfection, that it is a Character alſo of the Divinity*). *And therefore* (e) Markham *Chief Juſtice of* England *told King* Edward *the* 4*th, That he could not Arreſt any man for a miſdemeanour* (*as a Subject mought*) *becauſe if the King did wrong, the party could not have his Action againſt him* We receive Life and Vigour from the Influences of Heaven, but Diſtempers proceed from the Vapours of the Earth; which vapours yet can convey no Infection into thoſe Cæleſtial Bodies: Even ſo ſometimes the countenance of Princes may concur in the Execution of illegal Advices, without ſharing in the Obliquity and Injuſtice of them.

(d) *Cook* 11. Rep. 72. a. *Magdalen Col. caſe.*

(e) 1 *Hen.* 7. a. b. *per* Huſſey *Ch. Juſtice d' Angliter.*

The Poets have a witty Fable of Tireſias, *the great Southſayer, that he foretold future Events by the flying of Birds; not that he did ſee the Birds* (*for he was blind*) *but* (*ſay they*) *he had always his Daughter* Manto *near at hand, who inform'd him of the manner of their flights, and according to her Advertiſements, the Father evermore Divined: The Mythology or Moral of the Fable is oftentimes applicable to the beſt and moſt Virtuous Princes; they hear with other mens Ears, they ſee ſometimes thorough the Spectacles of other mens Eyes, and according to the colour of the Glaſs, ſo is the Object repreſented to them; black or red or perhaps white, whereas the true tincture of the thing may be clearly otherwiſe; and yet all this while the fault is not in the Eye, but in the deceptive Glaſs. If a falſe*

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(c) Bracton, [illegible] 9.

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Light-house be erected near a dangerous Rock in the Sea, and in a dark and tempestuous night the Ship is steered that way, as to a safe Port, and there upon suffereth Wrack, no body can with any reason impute this misfortune to the Error or Incogitancy of the Pilot, *or governour of the Vessel, but rather to the malice and falsity of this wicked invention. Upon this ground it is that* (f) Seneca (*a wise man, Tutor to an Emperor, and one that well understood what he wrote*) *breaks forth into that passionate interrogation,* Quid omnia possidentibus deest? ille qui verum dicat. **What thing only do they want which posses all things? Even** (answers he) **a person that will give them honest Advertisements.** *And therefore the Lord Chancellour* (g) Bacon (*among many other his excellent Counsels to the late Duke of* Buckingham) *urgeth this following document to him with a warmer Zeal than ordinary.* **In respect of the King your Master** (saith he) **you must be wary that you give him true information, and if the matter concern him in his Government, that you do not flatter him; if you do, you are as great a Traytor to him in the Court of Heaven, as he that draws his Sword against him.** *King* (h) *James* gives these persons no better names than of *Vipers* and *Pests to their Prince and the Commonwealth.* And that glorious Martyr *King* (i) *Charles* the First, resembles them to base *Flies which hang upon prosperous Princes* (*as on Summer-Fruits, but Adversity* (saith he) *like cold weather drives them away.*

(f) *Seneca de Beneficio,* Lib. 3. c. 30.

(g) *Cabala of Letters,* fol. 41.

(h) *In his Speech to the Parl.* 1609. *See his works* fol. 531.

(i) Εἰκὼν Βασιλικὴ *Meditation* 27. *To the Prince of* Wales.

This grievance of ours hath been represented to his Majesty under the pretence and umbrages of Royal Prerogative (*which in truth he is obliged to maintain*) *and of publique* Emolument *and Advantage*

vantage (which certainly are the moſt glorious Objects of Royal Prudence). With theſe and the like Blandiſhments, (Sir) this Chryſtal and pure Fountain of Juſtice hath been poyſon'd and contaminated. This is the Coloquintida with which ſo unſpeakable a Sweetneſs hath been imbittered, theſe are the Paintings with which ſo deformed an Advice hath been Sophiſticated. But let me tell you Sir, if in the ſequel of this Diſcourſe I ſhall not clearly wipe off all theſe Varniſhes and falſe Colours, and effectively prove this Advice to be as miſchievous to his Sacred Majeſty as to his People, I ſhall think I have very meanly acquitted my ſelf in this buſineſs.

I hope I ſhall not be thought to reflect herein, upon any perſon whatſoever, any farther than his own Conſcience may ſcourge him in this particular. And I know there be many great and illuſtrious Hero's near His Majeſty, (to whoſe ſervice I could willingly Sacrifice an hundred Lives had I them) that do abominate ſo pernicious a Councel: Sir, be aſſured theſe Worthies are not in the leaſt meaſure concern'd in my Animadverſions. 'Tis not for me raſhly to touch heads irradiated with the Beams of Royal favour: For my part, I meddle not with the Perſon of any man, but with the Advice abſtracted: Amo hominem, odi vitia, is a good Rule. And I praiſe God and the King, we live not now in an Age wherein it is more hazardous to diſcover an evil Action, than to commit it; or wherein the juſtly Accuſed ſhall take Revenge of the juſt Accuſer.

Neither would I be underſtood here to erect my ſelf into an Advocate for the Trade and Myſtery of Banking; A God's name where the Uſuries of thoſe people are by the King found outragious and illegal (which perhaps upon Examination will not be) let them be regulated, and reduced to juſt moderations.

All

All that I contend for is, That the Bankers (*whoſe concernments are now apparently become the concernment of their Creditors*) *may by* Opening the Exchequer *be enabled to ſatisfie their juſt Debts, that ſo the good and bad, the nocent and innocent* (*if that happen to be the Caſe*) *may not thus be overwhelmed together in one and the common Ruine.*

Sir, *let us not flatter our ſelves, Poſterity will aſſuredly diſcourſe our Actions, with the ſame freedome that we do thoſe of our Anceſtors.* Irridenda eſt eorum ſocordia (*ſaith* (k) Tacitus) qui præſenti potentia credunt extingui poſſe ſequentis ævi memoriam. **The improvidence of thoſe perſons** (ſaith he) **is ridiculous, who think by preſent power to extinguiſh the memory of future Ages.** *No, this cannot be; the Voluminous Hiſtories of all Nations which we daily read and handle, prove this project altogether idle and impracticable. Certainly there abides in mankind an immortal Principle, a Ray of the Divinity, which* naturally *inclineth us to a deſire of Glory, and to have our names guilded to all Ages in the Eternal Records of Fame.*

(k) *Annalium*, Lib. 4

Now Sir, *becauſe you ſhall ſee with what Candor and fairneſs I will proſecute this Argument, I ſhall deduce my following Obſervations from the wiſeſt* Hiſtorians *and* Stateſmen, *from the greateſt and moſt glorious* Princes *that the World hath at any time afforded, from* Juſticiaries *of the moſt profound Learning and chaſteſt Integrity, nay from* Bodies *of the* wiſeſt men *of this and other Nations in conjunction, from* Parliaments *and their Determinations remaining with us upon* Record, (*Evidences ſo Sacred in the Eye of Law, that no averment may be allowed againſt them, or Tryal of them, but by the Teſtimonies of their own native Grandeur*) *and* (*becauſe I would take off all imaginable objection to the credit of my Authors*) *I ſhall produce only*

only such which have long since departed this Life, *which for that reason (as a wise* (l) *King was used to say) were the most* faithful Councellors. **Such as these** (as (m) *Isocrates* tells us) **cannot be daunted with fear, or blinded with affection, or corrupted with preferments.** *These have indeed the character of true Councellors, which is*, (n) Ut non modo ne quid falsi dicere audeant, sed etiam ne quid veri non audeant; *that they will neither dare to tell a falsity, or conceal a truth; That would rather (as* (o) Seneca *tells* Nero) Veris offendere, quam placere adulando. *Offend by telling Truth, than please by destructive Adulations and Flattery. And lastly, such which* (p) Demetrius Palereus *advised King* Ptolomy *to converse with often; because, quoth he,* Ibi quæ Amici monere non audeant Reges, ea facile omnia possint reperire. *There Kings may discover those matters themselves, which possibly their best friends sometimes dare not advise them to.*

(l) *Alphonso King of Castile.*

(m) *Lipsii Epistola ad polit.* Ad Nicoclem.

(n) *Castellanus de Officio Regis.* Lib. 1. cap. 55

(o) De Clementia, *lib. 2. cap. 2.*

(p) Stobæus sermone 46.

I know yet there be those in the World will tell us, That Conversation *with the Dead, and the* Memoires *of former Ages, are Exercises both Melancholy and unprofitable, and adapted only to the complections of contemplative Natures,* Clerks *and* Book-Knights, *and I know not what. Methinks these Gentlemen should be a little quickned with a* Remarque (*no way contemptible*) *of the subtil* (q) Machiavil, *whilst he admonisheth us,* That there have seldom hapned any Misfortunes to particular Persons, States or Empires, but might have been prevented by a timely Reflection upon the Stories of their own or forreign Countries. *And let these futile Objectors think what they please, Those are to us assuredly the cheapest Experiences, which we purchase at the peril and cost of other Persons and States: and in the vicissitudes of humane Affairs, it is twenty*

(q) *Machiavelli Princeps.* And Philip de Comines, *Lib. 2. cap. 6. expresly in this matter.*

to one, but the ſame Cauſes will to the Worlds end produce the ſame, or like Effects, as naturally as one Seed produceth another of the ſame kind. Sæcula & perſonæ intereunt (*ſaith he*) Cauſæ & Eventa eadem recurrunt. *Ages and Perſons may change, but the Cauſes and Events of things remain alwayes the ſame.*

Sir, *I have treſpaſs'd too far upon your patience already by way of Letter, I ſhall therefore only tell you here, that I have ſearch'd (as well as I could) into the moſt ſecret Receſſes of my own Soul, and notwithſtanding can find no Convictions within my ſelf, that (when rightly underſtood) I may be ſuſpected to have uttered in the following Diſcourſes, any thing inconſiſtent either with the* Allegeance *of a dutiful Subject, or the* Honeſty *of a true Engliſhman,* that fears his God, honours his King, and loves his Countrymen; *and upon that ſingle Aſſurance do now without farther Diſguiſings ſubſcribe my ſelf*

From my Chamber at
Grayes Inn, *Octob.* 3.
1675.

Sir,
Your moſt Faithful
Friend and Servant

Tho. Turnor.

THE

LIBRARY

THE INTRODUCTION.

THE King's Debt to the *Bankers*, with the miſerable conſequences thereof, hath now for four years wanting leſs than three Months exerciſed the World with matter, not only of Diſcourſe, but Aſtoniſhment. For indeed, who will not be ſtartled to ſee the common Faith of a Nation violated, and a forcible breach made upon all that may be call'd Religious and binding, and this alſo in great meaſure, to the Ruine of Orphans and Widdows, and ſeveral even of thoſe who with unwearied conſtancy reſiſted unto blood, and loſs of whatſoever was dear unto them, in defence of the Crown of *England?* I ſhall not here lanch out into the ſtory of particular Caſes; that Theme will be infinite, and of force to endue * ſtones with ſpeech, and (by a contrariety of Miracle) to confound the moſt eloquent with ſilence. The Calamity hath filled all places with Lamentation, Mankind is over-whelmed with Inſtances thereof; what ſhould I ſpeak of the Sighes of the Decrepit and Labourer? The Groans of the Widdow, the Howlings of the Fatherleſs? Alaſs! even Babes of a * *Span long* feel the diſmal Effects of this Advice; and though they cannot ſpeak, yet expreſs their ſenſe thereof in *Out-cries*, and other the

* *Parvi loquuntur Dolores ingentes ſtupent.* Seneca.

* Lam. 2. 20.

the inarticulate Languages of Nature! Nay the very Child unborn, that yet ſleeps in the Loyns of its Anceſtors, will have cauſe hereafter to proſecute this pernicious Councel with Execration and Horror.

I doubt not but I have already Arreſted my Reader with frequent Amuſements, and he is by this time impatient to know what may be the reaſon of this unuſual fervour and zeal; and wherefore a private Paſſenger in the Ship of the Common-wealth, ſhould in this manner concern himſelf in the ſayling thereof.

I anſwer, *Firſt*, that every Subject is obliged to vindicate, and propugne the Honour and Innocency of his Sovereign; and to caſt the Envies and Malignancy of Peſtilent Councels, upon the Donors and contrivers thereof. Men commonly burn Incenſe where evil Odours have been raiſed; and perhaps this duty could never be more ſeaſonably exerted, than in this preſent Caſe. For I ſhould be ſorry that this *Adviſor* (as a perſon of great Honour and worth, ſaid not long ſince, of one of them openly) *ſhould like a Rabbit ſtart out of its Borrough, and look about him, and then run in again, and hide himſelf, and think no body obſerv'd him.* Certainly he is no good Miniſter or Servant, that will throw the odium of his own evil Actions upon his Lord and Maſter.

I anſwer, *Secondly*, that all men are intereſted in the ſafety of the Veſſel they are imbarqued in, though all ought not to preſide at the Helm: And pernitious Advices (like the falſities of the *Turkiſh Alchoran*) oftentimes gain ſtrength by the prohibitions of diſputing them. I know I ſhall be thought to broach a *Paradox*, if I ſhould affirm that ſome moderate fredomes of this nature, have been ſometimes Characters and marks of the happieſt

pieſt and moſt peaceable Ages of the World; and yet if this aſſertion be not in ſome meaſure true, we muſt abandon Faith to all Hiſtory: *For* (as the Lord (*a*) *Bacon* well notes) *ſuch Liberties give vent and diſcharge oftentimes to popular diſcontentments, and beſides, the Prince is thereby inſtructed in what part the Subject is pinch'd and griev'd, when perhaps he ſhall attain this information no other way.* And therefore *Auguſtus Cæſar* (one of the (*b*) happieſt and greateſt Princes it may be that the Sun ever ſaw) when he was told at any time, that even his own Perſon and his Edicts were too boldly diſcourſt of in *Rome*, would ſay, (*c*) *Quod in Civitate libera, linguas quoque civium liberas eſſe oportere. That in a Free City, the Citizens diſcourſe ought alſo to be free.* And this candid profeſſion of his, might poſſibly be no mean ingredient in the compoſition of his own felicities. (*d*) *Thuanus* writing to the great *Henry* the 4*th.* of *France*, unto other Laudatives of that Princes Reign, adds this, as none of the meaneſt, *Ea eſt Domine rara tuorum temporum fælicitas* (ſaith he) *in quibus unicuiq; ſentire quæ velit, & quæ ſentiat eloqui licet. Such* (Great Sir) *is the rare happineſs of your times, that in them every man may think what he pleaſeth, and ſpeak what he thinketh.* And of the ſame complection was that ſerene Age, in which the excellent Emperour *Trajan* Reign'd, as *Cornelius* (*e*) *Tacitus* (who was then living) affirms, from whom the ſaid *Thuanus* ſeems to have borrowed the very individual words before recited. I write not this in countenance of Clamour, and Scurrilities againſt thoſe things which I have always revered, and held Sacred; but under favour, in our preſent Caſe, where all Nature is big, and in Travel to be delivered of ſpeech, I hope her voice ſhall not be ſtifled and ſuppreſt.

(a) *Eſſay of Sedition and Troubles.*

(b) Eutropius, *Lib.* 8.

(c) Boterus de politia *L.* 7. *cap.* 8.

(d) Thuani Epiſtola ante Hiſtoriam ſuam ad *Hen.* 4*th. Franciæ.*

(e) Tacit. *Hiſt. Lib.* 1. in proœmio.

Thirdly,

Thirdly, I ſhall redargue this Objector, with that principle (which the Adviſers of this Calamity have thought ſo puiſſant) I mean Exigences, and invincible Neceſſity, a Neceſſity of no ordinary nature neither, but of near Allyance to that thing which we proverbially ſay breaks through ſtone-walls, that in hard winterly weather infuſeth boldneſs even into *Birds* and *Beaſts*; that alſo where Nature languiſheth, and the means wherewith ſhe ſhould be ſupported are unjuly ſubſtracted from her. The old Comick ſaith well * Τ' ἀργύριον ἐστιν αἷμα καὶ ψυχὴ βροτοῖς *Pecunia Anima & Sanguis eſt mortalibus. Money is the Life and Blood of mankind.* To deprive a man wrongfully then of that little money which he poſſeſſeth, what is it but to deprive him of his Blood, yea of his Life? I know, the great and opulent men of the World cannot deſcend ſo low as to conceive how much it importeth poor men and their Families to be in a moment deſpoil'd of all their Subſiſtance, and to be bereav'd perhaps of a few poor weather-beaten, water-drench'd Reliques, which they had reſcued out of the wrecks of their Fortunes in the late dreadful ſtorm of Rebellion: but yet they may pleaſe to believe, that *We* are as much pain'd with the Preſſures of our little Fortunes, as *They* are with thoſe of their great ones. I ſpeak this not out of any pride I take in comparing great things with ſmall, but only to diſpoſe my Reader to a favourable conſtruction of my words, if my Zeal may ſeem to tranſport me beyond the bounds of Decency.

* Lipſii *polit. Lib.* 4. *Cap.* 11.

Laſtly, I am not altogether without hope, but that ſomething poſſibly may happen to be ſaid in this Scribble, that may conduce to the healing up this Wound again. For the Phyſitians have a good Aphoriſm, *Primus gradus ſanitatis, eſt noviſſe morbum. The firſt degree of Health, is to know the nature of the Diſeaſe.*

I know ſome men are apt enough to alledge, that this Caſe is the leſs conſiderable, becauſe but a few perſons are therein concern'd. In this place I ſhall ſay no more, but that this Aſſertion is a great miſtake. For firſt, *this* Money being expended for the defence of the Kingdom, it was laid out upon the publick Utility; and certainly it will be very diſproportionable, that the common Advantage ſhould be maintained by a private Contribution: and upon this reaſon perhaps *a perſon of great Honour and Prudence* not long ſince in an Audience of the whole Kingdom doubted not to affirm, *That this concern was little leſs than National.*

But becauſe this (though in it ſelf unanſwerable) may ſeem to many to be but a precarious Argument; and being founded upon a conſideration of ſervice and Emolument, ſome time ſince done, may (in this ungrateful Age) prove but of mean Regard: I ſhall therefore Secondly, demonſtrate this matter to be of *Epidemical* and *Publick* concernment in point of continuing and *Permanent* Advantage. In order to this, I will ſuppoſe that the King owes a *Banker* 1000 *l.* this *Banker* owes me the like ſum, I owe as much to a third, he to a fourth, and ſo in *infinitum*; and the *Banker*, my ſelf, and the third perſon, have little elſe to ſatisfie our Creditors than this 1000 *l.* which is owing ſeverally to us. (Which Caſe may be well ſuppoſed to have hapned ſince the ſtop of the Exchequer) In this Caſe then I ſay, it will be moſt evident, that if the King never payeth the *Banker*, the *Banker* can never pay me, or I the third perſon, or he the fourth; ſo that by a neceſſary chain of Conſequences, the fourth perſon and his Creditors in *infinitum*, are as much grieved by the Kings non-payment of the *Banker*, as I my ſelf, who am the *Bankers* immediate Creditor. For (as I ſaid before)

before) *Money is the Blood of the Body Politick*; and we know, if the circulation thereof be ſtopt in one Member, that blood can never be tranſmitted to the neighbouring Veins; and thereupon not only that part, but the whole body in fine becomes Feavouriſh and languiſhant. The like may be ſaid, more eſpecially of *Merchandiſe*, and the *Univerſal Trade* of the Kingdom, of *Rents*, *Executorſhips*, *Legacies*, &c. And I doubt not but every man's conſideration, and the particular Intereſts of moſt perſons, will furniſh them with infinite inſtances of the like nature, in a very ſhort time.

But if this reaſon prove not ſufficiently prevalent in this matter, I muſt be inforc'd to go one ſtep higher, and to ſay, Thirdly, That if this proceeding fall out to be an *Invaſion* of the Subjects *Property* (as I think I ſhall anon prove it is) then I ſay, every Individual Perſon will be Intereſſed in the Fate of this Cauſe. For by the ſame reaſon that the Rights of * Ten thouſand Families may be violated, the Rights of Twenty thouſand may, and ſo in *infinitum*. We ſee men do uſually take themſelves to be concern'd, though the Fire be a Door or two from their own Houſes. And I think it is obvious to every man, that the publique and Parliamentary Cares and Wiſdom of this State, have been extended in point of redreſſing Grievances, not only to Bodies of men, in number much inferiour to *Theſe*; but oftentimes even to particular perſons, where the Preſſures have been Enormous. Certainly (*a*) the Laws of *England*, and eſpecially thoſe of *Propriety*, are the *Arteries* and *Ligaments* which hold together this *Body Politique*, which may not be cut aſunder or looſned, without a manifeſt *Peril* to the whole. *Without Laws what are Kingdoms* (as the (*b*) Father ſaid) *but* Magna Latrocinia, *Great and Powerful Robberies?* Or rather Wilderneſſes, where the

* The Principal Creditors of the Bankers have been computed to a number little inferiour to this; the perſons conſequentially concern'd are unnumerable.

(a) And ſo declared by King *James* and King *Charles* the firſt. See for this 1 *Jac. Cap.* 2. And the Exact Collection of Declarations 28. 29. 12 H. 6. 63. a *per Fray* expreſs.

(b.) *St.* Auſtin *de Civitate Dei*, lib. 4 cap. 4.

the ſtrongeſt *Animals* always prevail over the weakeſt. By theſe Laws his Sacred *Majeſty* is entituled to his *Regal Authority*, and the *Services* of his people; to his mighty *Revenews* of *Cuſtoms*, *Exciſe*, *Hearth-mony*, &c. and to all his Royal *Prerogatives*. Take away theſe *Laws*, what will become of *Peerage*? *Ranks* or *Degrees* of men? What aſſurance of *Life*, *Liberty*, or *Eſtate*, to our *ſelves* or *Poſterities*? What difference between *Good* or *Evil*? *Juſt*, or *unjuſt*? Every man will have equal *Right* to every thing; and in ſuch *Confuſion*, 'tis great odds but thoſe which *poſſeſs moſt*, will ſuſtain the greateſt *Inconveniencies*. And *yet* (*if I may ſpeak a Truth freely*) *this Debt to the Bankers is made good to the Subject, by Laws of the very ſame Parentage and Vigour; by Common Laws, Statute-Laws, yea and by that mighty Additional Security of the Royal gracious Declarations. I do not ſay this Debt* (*like* * *Paradiſe*) *was guarded with Cherubims, and a flaming Sword turning every way; but* (*under good favour of the Adviſor*) *I do ſay, that no Subject of* England *had his Life or Property ſecured with ſtronger Humane Defences than this Debt was.* * Gen. 3. 24

Theſe things premis'd, I ſhall now forthwith addreſs my ſelf to the main buſineſs. In the Argument whereof I ſhall obſerve theſe Gradations, or Steps.

1. *Firſt, I ſhall ſhortly put the Caſe* (*as it now ſtands*) *between the King and the Bankers.*

2. *Secondly, I ſhall prove, that by this Counſel of ſtopping payments in the Exchequer, the Subjects Property is invaded, or violated at Common Law.*

3. *Thirdly, That hereby it is invaded contrary to the Statute-Law.*

4. *Fourthly, That this Counſel is expreſly contrary to his Majeſties gracious Promiſes and Declara-*

tions, Printed and promulgated by his own especial Command.

5. *Fifthly, I shall by undeniable Records prove that the Parliaments of Old, have sollicited and effected the Opening of the Exchequer in Cases, for Nature, infinitely inferiour to our present Case of the Bankers, &c. I shall produce out of our own Authentique Histories, Instances of sundry Princes of this Realm, that have paid Old Debts even of their Predecessors; and this freely, and upon their own Native Impulses. As also of some of them which have restored Monies to their Subjects, exacted from them by illegal Courses. That Parliaments have been heretofore sometimes call'd only and singly for redressing Grievances of this, and other Natures; and sundry Important Presidents thereof vouch'd out of Records.*

6. *Sixthly, I shall at large answer the* Grand Objection of Necessity, and National danger, *(supposing too our fears to be at that time just) And shall prove by sundry Records from the* Norman Conquest *to our own Times, and otherwise,* That the Subjects Property is not violable, or to be altered, but by his own **Consent**, in cases of far greater National Danger than this was. *I shall enquire into the Decisions of the Civil Law in the like case. I shall answer the Rapines of* Ed. 1. *and* 3d. *upon the Subjects Money in the Churches and Abbies, and elsewhere. And because I would take up this Objection by the Roots, I shall then shew what courses the Law hath provided for preservation of the Kingdom, where the Danger is instant, and cannot stay for a Parliament.*

7. *Seventhly, I shall prove that this Counsel is contrary to the Policies hitherto used by the wisest Forrain States of the World, in far greater Exigencies than ours. I shall answer the Objection of some Princes not repaying Money lent them by their Subjects, to retain*

retain them in better Obedience. I ſhall refute the Objection of Usury *againſt the Bankers in our Caſe.*

8. *Eighthly, I ſhall prove this Counſel to be contrary to common Reaſon, and in ſome reſpects to violate the Rules of Humanity: That it is pernitious to the credit of his Majeſtie's Exchequer. Then I ſhall truly ſtate the caſe between* Philip *the* 2d. *of Spain and the Bankers of* Genoa, *and ſhall prove that caſe eſſentially different from ours.*

And Laſtly, ſhall frame a Concluſion upon the whole matter. In the Debate whereof I muſt all along ſo conſider Brevity and my Readers patience, as I muſt much more conſider the Dignity and Importance of my Subject and Argument.

SECT. I.

The Caſe put between the King & the Bankers.

I Think it is now evident enough to every man that underſtands any thing, that the concernment of the Bankers is now become the concernment of their Creditors; and that both their Intereſts are common, and ſo inſeparably twiſted together, that the Proſperity of the latter, will depend altogether upon the Fate of the former. Inſomuch that if the Banker never receives his Debt, I do not in any probability ſee how he will be able to ſatisfie his Creditors: We are therefore by invincible neceſſity obliged to maintain the Right of the Banker: and in order thereunto I will now put his Caſe, which in ſhort is no more but this.

A Banker lends to the King an hundred thouſand pounds, more or leſs; this Money is ſecured to the ſaid Banker upon the Cuſtoms, or any other Branch of The Caſe.

the King's Revenues, &c. *by* **Order Registred in the Exchequer,** *or by* **Tally of Loan,** *or* **both,** *and then the King (upon the Warlike Preparations of our neighbour-Princes and States) is advised to make Stop of all Payments out of the Exchequer, which is executed accordingly; whether by this Counsel executed, the Subject's Property be invaded and violated: and I clearly conceive it is.*

SECT. II.

That By this Counsel of stopping Payments out of the Exchequer, *the Subject's* Property *is invaded at Common Law.*

IT is an Essential principle of the Law of this Realm, *That the Subject hath an undoubted Property in his Goods and Possessions.* Otherwise there shall remain no more Industry, no more Justice, no more Valour; for who will labour? who will hazard his person in the day of Battle for that which is not his own? How can the Subject by any Act of Bounty ingratiate himself with his Soveraign? *The Kings of* England (saith a great * Assertor of Prerogative) *have alwaies claim'd a Monarchie Royal, and not a Monarchie Signioral: under the first* (adds he) *the Subjects are Free-men, and have propricty in their Goods, and freehold in their Lands; but under the latter they are Villains and Slaves, and can call nothing their own.* Neither was this Right of Property introduc'd here, by any Charter or Edict of Princes; but was the old Fundamental Law, springing from the Original Frame, and Architecture of the Kingdom. (a) There were manifest Footsteps of this Law in the *British*, *Roman*,

* *Sir* John Davis Rep. 40. b.

(a) Lambards Archeion. Fortesc. de laudibus Legum Angliæ, cap. 17. Dugdales *Origines Juridiciales.* Infinite Authorities there quoted to prove this. See there Fol. 5, 6.

Roman, *Saxon*, and *Daniſh* Governments here; nay it was of that vigour and puiſſance, to ſurvive even the very *Norman Conqueſt*. To prove which, I ſhall crave leave to produce this following ſhort memorable Record. *One* Shirboorn *a* Saxon *at the time of the Conqueſt, being ſeiſed of a Caſtle and Lands in* Norfolk, William *the Conquerour gave the ſame to one* Warren *a* Norman *of principal Quality*. Sherboorn *dying, his Heir ſhewed to the Conqueror that he was his Subject, and that he ought to Inherit the ſaid Caſtle and Land, by vertue of that Law which he himſelf had eſtabliſhed in* England. **In this Caſe the Conqueror gave judgement for Sherboorn againſt Warren, and pronounc'd his own former Gift void.** See for this *Cambden* in his deſcription of *Norfolk*. And Sir *John Davis* Rep. 41. a. The Caſe of *Taniſtry*. And there it is ſaid by Judge *Calthrop*, that he himſelf had ſeen an Authentique Copy of this Judgement.

For indeed the Common Law is not more ſolicitous of any one thing, than to preſerve the Property of the Subject from the Inundation of the Prerogative. And therefore the King may not grant Commiſſion to dig for Salt-peter in a Manſion-houſe, or Barn fill'd with Corn, without the Subjects conſent, though for the publick Benefit. Reſolved by all the Judges of *England*, 4 *Jacobi* (this point being refer'd to them by that King, upon a complaint then made in *Parliament*) Cook's 3. Inſt. *fol.* 82, 83. Cook's 12. Rep. *fol.* 12. So the King cannot take Gravel (for the repairing of his Houſes) in the Inheritance of the Subject, *Maugre ſon Soen* (ſaith the Book) againſt his will, 11 *H.* 4. 28. *a*. So likewiſe, where a cuſtom is to pay Toll for all Cattle that ſhall be driven over a common Bridge, this Cuſtom ſhall binde the Subject, but not the King: but where a Cuſtom is to pay Toll

for all Cattle that shall be driven over a mans private Freehold, there the Custome shall prevail against the Prerogative: and what's the Reason of all these Cases? why, because the Law will not allow the King to Invade the Subjects Inheritance and Property without Consent and compensation. For this last Case, see the express Book of 46 of *Ed.* 3. cited in *Plowden* 236 *a.* The Lord *Barkley's* Case. Many other Cases of this nature are there recited, and in other Books of our Law, which for brevity I forbear to mention.

To come then to the Hinge upon which this point turns, I do lay this down for an indisputable ground, *That the Law and Usages of the Exchequer are Branches of the Common Law of this Land*; and so is the Lord Chancellor Egertons *Postnati*, *pag.* 33. and 38. *Plowden* 320. *b.* and 321. *b.* The Case of *Mines*, and *Cook's* second *Report* 16 *b.* *Lane's* Case adjudged. Now then *by the Law of the Exchequer, when the King hath charged himself to the Subject by Tally* (as in our Case) *or by Liberate*, (as in Case of Letters Patents) *to pay a sum of Money out of his Customes, or any other branch of his Revenue, and his Receiver hath received this Revenew; this money though at first it appertains in property to the King, yet as soon as ever the day assign'd for payment comes, and the Kings Creditor resorts to this Receiver, and shews him his Talley or Liberate, and demands payment accordingly, the Property of this money* (to the proportion of the Debt) *by meer operation of* * *Law, is transferr'd out of the King into the Collector or Receiver, and in an instant becomes the proper and personal Money, (I say the* **Proper and Personal Money**) *of the said Receiver; in respect of his charge over to the party.* And so it is clearly affirmed by all the Judges of both Benches. *Plowden* 186. *a* Lord *Darcyes* Case.

* Fortior est Dispositio Legis, quam hominis.

Again

Again, the Law (which never deſign'd that this Money ſhould abide always in the Receiver, whom it uſed only as a Conduit-Pipe, or mean of Conveyance) *hath no ſooner altered the property of the Kings money into the Receiver, but the property of the very ſame money when it becomes due to the Creditor, in the ſame Inſtant upon ſhewing of the Talley, is altered once more, out of the Receiver into the Kings Creditor*; which is the Reaſon, that in ſuch Caſe, as ſoon as ever the Receiver hath *Aſſets* in his hands, the Law gives an Action of Debt to the Kings Creditor, againſt the ſaid Receiver. *And whereſoever the Law gives a man an Action of Debt, it doth evermore firſt give him the Duty or Right, or Property in that thing for which that Action is brought.* And this moſt evidently appears from the conſtant Pleading in this Action, which is, *That the Defendant render unto the Plaintiff ſuch and ſuch ſums of Money* [Quas ei debet & injuſte detinet, *ſaith the Writ*] *which the Defendant oweth to the Plaintiff, and unjuſtly deteineth or keeps from him.* Now if the Defendant owe, and yet unjuſtly or wrongfully detein, why then he deteins that which is not his own, but that which is the Right or Property of the Plaintiff. *F. N. B.* 119. *G. Termes de Ley, verbo Det.* and all our Books. Beſides, the common and known practice of the *Exchequer* is, *That from the very point of Time in which any Talley is ſtruck, the Kings Receiver is* ipſo facto *diſcharged upon his Accounts in the Kings Books, to the value of that money ſecured by the ſame Talley*, And thereupon becomes Debter to the owner of that Talley, when the Day of Payment happens, and he hath Aſſets in his hands. So then (as I have ſaid) the Kings Money is altered in point of Right and property: Firſt, out of the King into the Receiver; and Secondly, out of the Receiver into the Creditor. I ſhall now proceed to corrobo-

rate the Foundations I have here laid, by ſundry undeniable Authorities in Law.

And therefore if the King grant a ſum of Money to *J. S.* to be received out of his Cuſtoms of *London*, I ſay, that by the delivery of the Talley, Liberate, and Aſſets in the hands of the Cuſtomer, the Cuſtomer is become a Debtor to *J. S.* and he may bring his Action of Debt upon this matter againſt the Cuſtomer. *Coke's* 4 *Inſtitutes* 116. *F. N. B.* 121. *F.* 21 *H.* 6. *Fitzh. Debt.* 43. 27 *H.* 6. 9. *Fitzh. Bar.* 314. *Brook Talley d' Exchequer* 1. 37 *H.* 6. 15. *Brooke* ibid. 3. *Rolles* 599. *title Debt.*

Nay in ſuch caſe, if the Receiver dye, the Action will lye againſt his Executor. And therefore where the King had granted a Fee by Patent to the Clerk of the Parliament to be received out of the profits of the Hanaper, and the Clerk of the Hanaper dyed yet adjudged that Debt would well lye againſt his Executor, becauſe ſo much of the Kings Money was altered in property in the hands of the Teſtator, and yet here was no Contract, Privity in Word, Suit, or Execution of Law between the King and Teſtatour, or Executor, 2 *Hen.* 7. 8. *b.* &c. *Fitzh. Bar.* 124. *Plowden* 36. *b.* and 186. *a.* So if the King Aſſign Talleys upon the * *Diſmes* to his Creditors, and they ſhew them to the Collectors of the *Diſmes*, the King is hereby diſcharged, and the Collectors are charg'd, and the King cannot Pardon the Collectors, or the Clergy which granted the *Diſmes*. 1 *Hen.* 7. 8. *a. Brook Charter de pardon*, 37. Nay, ſo careful is the Law of the Subjects Property in ſuch caſe, that if after a like grant of the *Diſmes*, the King ſhould dye, yet the Collectors are chargeable to the King's Grantee, and not to his Succeſſor. 1 *Hen.* 7. 8. *a. per omnes Juſtitiarios. Brooke Quinzime* 7. *Fitzh. Quinzime* 2. *Brook Tally d' Exchequer* 5.

* A certain antient Taxe impoſed by Parliament.

Nay

Nay, I ſhall yet go one ſtep higher. If a King Uſurper do make a like Aſſignment, and then is depoſed, yet the rightful King is bound by this Aſſignment [*pur ceo* (ſaith the Book) *a cheſcun Roy appertaine al faire Juſtice, & d'executer les Leyes*] *Becauſe every King is obliged to do Juſtice, and to execute the Laws.* For this, ſee Judge *Jenkins Centuria* 4*ta. Caſus* 21. 9 *Ed.* 4. *Brook patents* 21. 1 *H.* 7. 8. *a. expreſs per omnes Juſtitiarios.*

Object. If it be Objected, Ay but this Security by Talleys is now become *Obſolete & antiquated*, and you cannot ſhew me any late Preſidents where Debt hath been brought in this nature upon a Talley.

Anſw. I ſhall not here demand of the Objector to what End Talleys at this day are ſtrucken to the Subject for the Kings Debt, (though we know yet, that *Nature and the Law do nothing in vain*) neither ſhall I tell him that in the Reign of Queen *Elizabeth* and after, this ſecurity was reputed Sacred, and ſo never violated, Or that by the ſame reaſon of Arguing ſeveral other old ways of proſecuting mens Rights (*as Writs of Treſaile, De Recto Recti, De Odio & Atia*, &c.) muſt be likewiſe diſtinguiſhed (*which are not*) Or that of late times Orders Regiſtred have had the preference, as being National Securities. But that which I rely upon is this, That it is moſt evident from the Caſes above cited, that this courſe of grounding Debts upon Talleys was in thoſe times undeniable Common Law: then I muſt challenge my Objector to ſhew me by what Statute-Law this was repeal'd (the which I am ſure he can never do) and therefore I muſt tell him, that our * Books ſay, it is a Maxime, *That the Common Law of* England *hath no Controller but the High Court of Parliament; and that if it be not abrogated by Statute, it can never be loſt by Deſuetude*, & non Uſer.

* Littleton Sect. 170. Cokes 1. Inſt. 115. *b.*

Object. Now if any man ſhall farther ſay to me.

Sir,

Sir, you have abundantly prov'd the ſtopping of the Exchequer, to be an Invaſion of Property as to the Receiver and Cuſtomer, and the like by the Common-Law; but not ſo clearly as to the *Banker* or his Creditor, which was the Poſition you alſo undertook to maintain.

Anſw. To this Objection, I give this plain Anſwer: *That the ſtop of the Exchequer to the Receiver, Cuſtomers*, &c. *is by inevitable Conſequence a ſtop to the* Bankers *and their Creditors. (and ſo likewiſe* Their *Property violated) becauſe by this Obſtruction the Receiver*, &c. *is diſabled to ſatisfie the* Banker, *and the* Banker *his Creditor, and that Creditor* His *Creditor, and ſo in an infinite rotation throughout the Kingdom; juſt as where the Grandfather or Father (*ſome years paſt*) were diſpoil'd of a great Eſtate for their Loyalty to the Crown of* England, *this was an injury and damage to the Son alſo, and all their miſerable Line to the Worlds end will feel the Anguiſh and Effects thereof.* Or *(becauſe I would make it ſtill plainer) I will ſuppoſe twenty Mills to be built upon one River, each of them in ſequence one below the other; a perſon comes and Dams up this River, or diverts the Current thereof into a new Channel; I do ſay that by this Diverſion or Obſtruction of the Stream, the Twentieth Mill is injured as well as the firſt, becauſe (if there were no Impediment) that water which comes to the firſt Mill would at the long Run arrive to the twentieth.*

In ſo plain a Caſe I need not make any Application, or indeed, uſe any farther Argument as to the Common-Law-part of this Diſcourſe. However, becauſe I would not leave the leaſt colour of evaſion to my Objector, I will (with my Readers Patience) a little farther explain the *Modus* or *Manner* how the Subjects property is in this Caſe violated. In order to that, I will put this plain Caſe: *The King before the ſtop of the Exchequer borrows of me One thouſand*

ouſand pounds, and then ſecures to me this Money
, Talley upon the Cuſtomes; then comes the fatal Stop,
nd preſently after happens the day Aſſign'd for Pay-
ent of my Debt: At which time the Receiver of the
uſtomes hath a Thouſand pounds of the King's mo-
ey in his hands; I come and ſhew my Talley to the
eceiver, and demand payment; The Receiver denyes
. I inſiſt, and tell him, that he hath Aſſets and
ffects in his hands; and that therefore by the Com-
on Law of England *immediately upon ſhewing my*
alley to him he is become my Debtor. Sir (anſwers
he Receiver) *what your Common Law may be in*
his point I do not pretend to know; but this I well
now, That the Kings Will and Pleaſure expreſt both
s his * *Declaration in Councel of the* 2 Jan. 71. *and*
is Letters Patents of the ſame Date, have ſuſpended
nd reſtrained the payment of your Debt, and all
ther of that nature; To the which Royal Pleaſure I
m commanded there *to be obedient at my Peril:*
nd farther the ſaid Letters Patents expreſs, that they
will be my ſufficient Warrant and Diſcharge for
o Doing, which is the Rule I muſt and ſhall walk
y. And yet this Receiver all this while would
hink it a ſtrange thing, (and ſo ſhould I too) if a
Merchant ſhould deny paying his Cuſtoms; and yet
he Cuſtoms and my Debt are payable only by the
ame Law of *England.* Take away this Law (as I
ſaid * before) and there will remain no further *Right*
of any thing, or *Property*, either to King or Peo-
ple.

* Printed in the end of this Treatiſe

* In the end of the Introduction.

Having thus premiſed this Caſe, I ſhall now tell my Reader, That it is moſt evident from the numerous Authorities by me before cited, that the Common Law ſaith, That this 1000*l.* in the Receivers hands, is firſt the Receivers, and then mine: And it is as evident, that the ſaid Declaration and Letters Patents ſay, It is neither the Receivers nor Mine; ſo then

the

the Declaration and Letters Patents have manifestly Ravish'd and forc'd that Money from the Receiver and my self, which the Common Law of *England* hath given to us both. And so the *Property* of the Subject (by the Counsel of stopping payments in the *Exchequer*) plainly invaded contrary to the Common Law of *England*; which was the Position I undertook to maintain in this Section.

I shall now cite but one other Case, and that a far stronger one than Ours, and then discharge my self of this Section.

The Case is *Mich.* 1. *Hen.* 7. *Fol.* 3. *b.* and abridg'd by *Fitzherbert Bar.* 122. [*Touts les Justicies fueront al* White Fryars *pur lour Fees*, &c. saith the Book] All the Judges were assembled at *White Fryars* to consult about the payment of their Salleries which were behinde: And their Case was this. By a * Statute made 18 *Hen.* 6. it is Enacted that the Customers shall pay the Judges their Salleries out of the first Moneys arising out of the Customes of *London*. And then *Richard* the third grants License to certain Merchants to carry Woolls, and to retain the Customs thereof in their own hands (which was as it were a little diminutive stopping of the *Exchequer* as to the Judges in this Case. And the question was, whether the Customers shall be chargeable to the Judges for those Reteinments of the Merchants; and after mature debate, *Resolved by them all, that the Customers were chargeable even for those Reteinments, though they never came to their hands*; and in the end of that case, it is said that the Judges design'd each of them to bring his Action against the Customers; which they perceiving, they forthwith agreed with the Judges to pay them their Salleries.

* Rot. parl. 18 *H.* 6. num. 27.

Now any man that shall well consider this Case will finde the reason thereof to be, because *though* the

he King had granted the priviledge of reteining the Cuſtoms to theſe Merchants, yet in contemplation of Law, the Cuſtomers did ſtill actually receive thoſe Cuſtomes, and ſo were chargeable to the Judges; like the Caſe I put before of 1 *Hen.* 7. 8. *a.* where the King remitted the *Diſmes* to the Collector or Clergy) and the rather in this Caſe, becauſe this private Licenſe of the Kings ſhall not prevail over an Act of Parliament, which had ſecured unto them their Salaries out of the Cuſtomes: which leads me to the next Poſition which I have propoſed to aſſert, which is,

SECT. III.

That by this Counſel of ſtopping Payments in the Exchequer, *the Subject's* Property *is invaded againſt Statute-Law.*

OUr (*a*) Books tell us (and not without Reaſon) **That the Parliament**, (*Eſt un Court de treſgrand honor & Juſtice, de que nul doyt imaginer choſe diſhonourable*) **is a Court of thrice great Honour, and Juſtice, of which no man may preſume to think a diſhonourable thing.** (*b*) *Crompton* calls it (*Le treſhaut Court d'Angliterre*) *the thrice High Court of* England, *per Excellentiam.* And we cannot but ſuppoſe (ſaith the Lord Chancellor (*c*) *Forteſcue*) that Statute-Laws carry with them no mean force, as well as Wiſdome, *Dum non unius aut centum ſolum conſultorum prudentia, ſed pluſquam trecentorum electorum*, &c.) **When they are the results, not of the Prudence of one, or two, or three hundred onely of**

(*a*) Plowden. 398. *b.* *Earl of* Leiceſter's *caſe.*

(*b*) Crompt. *Juriſdict. pag.* 1. *a.*

(*c*) *Forteſcue de laudibus legum.* Angliæ. *caſ.* 8. Dyer, 60. *a.*

of the Select men of the Kingdom, i
of a far greater number. In this (d)
the *King* (like the *Sun*) ſhines in the *Exaltation*
Majeſty and Grandeur, environed by the Illuſtri
Members of both Houſes; and from the Conj
ction of this *Great*, and *Leſſer Lights*, propiti
and refreſhing *Influences* are derived to the wh
Kingdom. The Acts of this *Court* are the high
(e) Securities this *Nation* can give, and ſuch Se
rities that do in themſelves comprehend the U
verſal *Conſent* of all Mankinde in this Realm,
well future as preſent. And (which is the great
Enſigne of *Sublimity*) no *Appeal* lieth from t
Court, nor can the Judgements thereof be Rever
by any other Humane legal power, than by *Parl*
ment. *The publick Faith* (ſaith King * *Char*
the firſt) *is indeed as great an Earneſt as the St*
can give, and ingages the Honour, Reputation,
Honeſty of the Nation, and is the Act of the Ki
dom; 'tis the ſecurity of the King, Lords and Co
mons, which can never need an Executor, can ne
die, never be Bankrupt, &c. And a whole * Parl
ment (which ſhould beſt know its own Ener
and puiſſance) affirms, That the Court
Parliament is of ſuch Authority, and t
People of this Land of ſuch a Natu
and Diſpoſition, as Experience teacheth
that Declaration of any Truth or Rig
made by the three Eſtates of this Real
aſſembled in Parliament, and by Autho
ty of the ſame, maketh, before all oth
things, moſt Faith, and certain quietn
of Mens Mindes, and removeth the O
caſion of Doubts.

Having premiſed thus much concerning t
Sanctimony and vigour of our Engliſh Statu
Laws, in point of Aſſurance and Security, I ſh
no

(d) Crompt. *Juriſdict.* 10. *b.*

(e) Hobart, 256. *Duncomb's* Caſe. 21 *Hen.* 7. 4. *a.* & 1. *b.* per Vavaſor. & Butler.

* Exact Collection of Declarations, *&c. pag.* 770.

* Rot. parl. 1. *Ri.* 3. in *Cotton's* Abridgement of the Records. *fol.* 713. 714.

now with better advantage expose to my Reader's view, a Statute-Law of fresh date and memory, designed to prevent the present calamitous Stop of the Exchequer, and to relieve this particular Case of the *Bankers* and their *Creditors*. And that is the * Statute of the 19th of his now Majesty, chap. 12. which I shall here recite (so far as it concerns my purpose) *verbatim*.

* Printed in the book of Statutes.

Whereas it hath been found by experience upon the late Act for twelve hundred and fifty thousand pounds, made at Oxford, and other Acts of Parliament since that time, that the power of Assigning of Orders in the Exchequer upon those Acts, without Revocation, hath been of great use and advantage to the persons concerned in them, and to the Trade of this Kingdom, and given great Credit to his Majesties Exchequer: Be it Enacted, and it is hereby Enacted by the King's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons in this present Parliament assembled, That every person or persons, Native, or Forreigner, Bodies Politick or Corporate, to whom any Moneys shall be due in your Majesty's Exchequer, and shall have any Order Registred in the Office of the Auditor of the Receipt, for the payment thereof out of any branch of your Majesties Revenue: That such person or persons, Native or Forreigner, Bodies Politick or Corporate, their Successors, Executors, Administrators or Assignes, respectively, by Endorsement of their Order, may Assigne and transfer their Right, Title,

tle, Intereſt and Benefit of ſuch Order, or any part thereof, to any other; which being notified in the Office of the Auditor of the Receipt aforeſaid, and an Entry and Memorial thereof alſo made in the Book of Registry aforeſaid for ſuch Orders (which the Officers ſhall on requeſt accordingly make) ſhall Entitle ſuch Aſſignee, his Executors, Adminiſtrators and Aſſignes, or Succeſſors reſpectively, *TO THE BENEFIT THEREOF, AND PAYMENT THEREON.* Now it will be plain to any man that ſhall conſider this Statute, that the Parliament doth therein admit an unqueſtionable duty of the Money, to the Lenders in the *Exchequer.* (for ſo are the words, *Every perſon to whom any Money ſhall be due in your Majeſties Exchequer*, &c.) And the makers of this Act could never mean that nothing ſhould be transferred to the Aſſignee: For indeed all the powers of the Univerſe can never make me * Donor of that which never appertained to me, nor I never had in me to give: And therefore this Money muſt firſt of neceſſity veſt radically in my ſelf in point of Property, before I can transfer it to another perſon. So then if this Law ſecure this Money to my *Aſſignee*, *à multo fortiori* to my ſelf. Now that this Statute ſecures this Money to my *Aſſignee*, I ſhall prove by three unanſwerable Reaſons, (as I ſuppoſe) all drawn out of the Bowels of this very Law it ſelf.

* *Nill dat quod non habet.*

Firſt, the Inducements of this Statute appear in the Preamble thereof to be, **Advantage to the perſons concern'd, To the Trade of the Kingdom, And alſo great credit to the Exchequer.** Therefore the makers of this Law could never deſigne a transferring of the *Husk* or *Shell* onely, that is, of the *Order* or *Paper*, but even of

of the *Fruit* it ſelf, I mean the Money in *ſpecie*; for that is it which carries the *Advantage*, the *Trade*, and the *Credit* with it, and not the Order or Writing, as all men concern'd finde by woful experience.

Secondly, there is no man doubts but that the Moneys lent upon the *Oxford-Act* of 17 *Car.* 2. *cap.* 1. for 1250000 *l.* and upon the *Pole-Money-Bill*, 18 *Car.* 2. *cap.* 1. and upon the *Act* of 19 *Car.* 2. *cap.* 8. for 1256000 *l.* were unqueſtionably ſecured to the Aſſignees of the Lenders by thoſe ſeveral Acts: why then I ſay, that all Moneys ſince that time Lent into the *Exchequer*, and charg'd upon any branch of the King's Revenue, are equally ſecur'd to them by this Act. And that not only, *Firſt*, becauſe this Act in the Preamble thereof refers expreſly to thoſe other Acts, and therefore muſt neceſſarily intend a Security of the ſame Vigor and ſtrength to the Perſons concern'd in this Act, as to thoſe in the other Acts; But *Secondly*, (than which I think nothing can be plainer) *Becauſe the Moneys ſecured by this Act to the Aſſignees, are ſecured with the ſame numerical, identical words, with which the Moneys Lent upon the three other Acts are ſecured.* The Enſuring Words in each of the Four Acts being, *Viz.* **That the Aſſignee of ſuch Money-Order, his Executors, &c. ſhall be entitled to the Benefit of ſuch Order, and Payment thereon.** Alſo the Moneys ſince lent upon the Act of 22 and 23 *Car.* 2. (for granting a Subſidy to his *Majeſty* for ſupply of his extraordinary Occaſions) are Secured to the *Lenders Aſſignees* by the very ſame words *in terminis*, and no other. And theſe things will be obvious to any perſon that ſhall curiouſly compare all theſe Acts together; to the which, for Brevities ſake, I am inforc'd to refer my Reader,

and do accordingly requeſt him to reſort thereunto. So then if the Moneys lent upon the *Guaranty* of the Three former Acts, and of the latter of 22 and 23. were thereby ſecured to the *Lenders* and their *Aſſignees* (which no Man hath hitherto been ſo frontleſs or impudent to deny) I would fain know why the Moneys lent upon the *Guaranty* of this Act which I have here recited at large, are not thereby for the ſame Reaſon ſecured to the *Bankers*, and their Aſſignees, when the *Enſuring Words* in this Act, are numerically, and to a Syllable the ſame, with thoſe in the other Acts. A Reaſon certainly ſo plain and refulgent, that it ſeems to be wrote with a Beam of the *Sun*, and is inviſible only to that Man which deſignedly ſhuts his Eyes.

However, if I may ſupererogate a little in ſo clear a Point, I will add *Thirdly*, That it is moſt evident from the very words of this Statute, **That every Perſon to whom any Moneys are due in his Majeſties Exchequer, and that hath there any Order Regiſtred for the Payment thereof out of any Branch of his Majeſties Revenue, that ſuch Perſon, his Executors &c. may Aſsigne their Right, Title, Intereſt, and Benefit of ſuch Order, and thereupon the Aſsignee, his Executors, &c. ſhall be entitled to** (or have) **the Benefit of ſuch Order, and Payment thereon.** Now let's ſee how theſe Qualifications are applicable to our preſent Caſe. *Firſt*, then, it's plain that the *Banker is a perſon to whom Moneys are due in his Majeſties Exchequer, and ſuch perſon that hath an Order Regiſtred there, for the Payment thereof out of the Cuſtoms, Exciſe, or other Branches of his Majeſties Revenue. Secondly*, it is as plain, *that* (ſince the ſtop of the Exchequer) *ſuch Banker, his Executors*, &c. *cannot Aſſign their Right, Title,*

Title, Intereſt, and Benefit of ſuch Order, eſpecially in ſuch Nature that the Aſſignee, his Executors, &c. ſhall have **the benefit of ſuch Order, and Payment thereon,** as this Law punctually, and in the very Letter thereof requires. So then the *Caſe* is no more but this: *The King, Lords and Commons of* England (*the great and wiſe collective Body of this State*) *Enact in the Affirmative, That upon the* Bankers *Aſſignment of his Money-Order, the Aſſignee ſhall have the Benefit of ſuch Order, and Payment thereon; then come the King's Letters Patents, and the ſingle Royal* * *Declaration, and Pleaſure* (as it is there ſtiled) *of* 2 Jan. 167½ *and ſay in the Negative, That no Payments ſhall be made upon the ſaid Order; and conſequently that the ſaid Aſſignee ſhall have no Benefit of ſuch Order, nor Payment thereon. So then the Act of Parliament ſaith, That the Subject ſhall have the Money; and the Declarations and Pleaſure ſay, That the Subject ſhall not have the Money*: an expreſs Contrariety. And in this particular conſiſts the Grievance of the Subject, and the Invaſion of his Property againſt Statute-Law: which was the Point I at firſt undertook to prove in this Section.

* Printed in the End of this Treatiſe

If any man ſhall yet ſay (as I find all is objected that the Wit of Man can invent) That the Stop made by the ſame *Declarations* is but *temporary*, and expreſt there to endure only for a Twelvemoneth: I ſhall then Reply, That by the ſame Reaſon the Declarations may ſtop for one Year, they may for twenty, and ſo for ever. Again, it is palpable to all Mankind, that the ſaid Stop (though limited at firſt for a Twelvemoneth) hath yet endured now, Four Years wanting leſs then Three Moneths. *And how far the Continuation of the Stop may amount to an Affirmance and Vindication of the firſt Wrong and Injury done to the Subject, I muſt leave to wiſer Heads to debate more fully, and determine.*

All that I ſhall ſay is this; That I will *pro hac vice* admit (which yet hath not the leaſt Colour or Pretence of Law) *That the King by his Letters Patents under the Great Seal, and Declarations in Councel, might Lawfully put a Stop, in our Caſe, to Payments in the Exchequer.* And then I hope it will be admitted to me (which yet is no extraordinary favour). *That Letters Patents, and Declarations of this nature, do oblige and binde no longer than for the Times in the ſaid Letters Patents and Declarations, limited and expreſt.* Theſe Things being premiſed, and granted, it will be now proper for me to Examine to what *Duration* or *Time* our preſent Stop is reſtrain'd by any *Letters Patents*, or *Declarations*. The firſt *Letters Patents* then, and *Declaration* which reſtrain Payments to the *Bankers*, are both Dated 2 *Jan.* 1671. and expreſt there to continue in force only to the laſt of *December* 72 (being a Twelvemoneth wanting one Day). And the ſaid *Declaration* enlarges farther too in the *Negative*, in theſe remarkable Words following; *Nor ſhall this Reſtraint which his Majeſty hath been compell'd to lay upon ſuch Moneys as are or ſhall be Pay'd into the Exchequer, continue longer than the aforeſaid laſt Day of* December: **And then no new Warrants, Orders or Securities ſhall intervene to weak the Courſe of ſuch Payments.** But notwithſtanding, (*the ſame inevitable Neceſſities continuing*, as it is there recited) by ſecond *Letters Patents*, and another *Declaration* dated 11 *Dec.* 72. the former Stop is yet prolonged to the firſt day of *May* next inſuing, (which was in the Year 73). At what time the *Vertue* and *Influences* of all the ſaid *Letters Patents*, and *Declarations* totally and undeniably expired; and were never after reinforc'd by any New *Publiſh'd Royal Pleaſure*, or *Private* (that we ever heard of). *So that from the ſaid*

firſt

first of May 1673. *to this preſent time (which is now almoſt Two Years and an half, and being a Time of Peace alſo for the moſt part) the Exchequer hath been ſhut up, without the Colour or Pretence of ſo much as Letters Patents, or Declaration, publike or private* (that we know) *to warrant the ſame*: And yet nevertheleſs no part of the *Bankers* principal Debt paid, or indeed any thing very conſiderable of their Intereſt. So the preſent *Stop* of *Payments*, in moſt miraculous manner (like the *Globe* of the *Earth*, or *Mahomet's* Tomb) hangs in the *Ayre*, without *Support* or *Foundation*; **And the Exchequer is Shut, and not Shut; Open, and not Open**: A *Riddle* or *Myſtery* which many Thouſand *Loyal* Subjects do Paſſionately long to have read, and unfolded; As alſo to ſee this *Gordian*-knot diſſected and cut with the *Alexandrian Sword* of *Juſtice*.

SECT. IV.

That this Counſel of ſtopping up the Exchequer, *is expreſly contrary to His Majeſty's gracious Promiſes and Declarations, Printed and Publiſhed by his own eſpecial Command.*

MY deſigne all along in this Diſcourſe, being to diſcover the Peſtilence and miſchief of this Counſel, in relation as well to his Majeſty as his People; I cannot with better advantage diſcharge my ſelf of the Province I have undertaken in this Section, and manifeſt how unhandſomely his Majeſty hath been treated by this Adviſor, than

by conſidering a while the Sanctimony of promiſes among Princes.

Nothing then I ſay is more ſacred or tremendous among Princes, than their publick Faiths and Declarations; becauſe in theſe Caſes the *Prince* evermore ſtakes down his *Honour* and * *Divinity*, as *Hoſtages* or *Pledges* for juſt performance; and in all Breaches of *Stipulation* and *Compact*, the *Hoſtage* or *Pledge* uſually is loſt and Forfeited. This the Emperour *Tiberius* underſtood well, when he ſaid, (a) *Cæteris mortalibus in eo ſtant conſilia quod ſibi conducere putant, Principum vero*, &c.] *Inferiour perſons* (ſaith he) *may order their Counſels as they beſt ſort with their Advantages; but the condition of Potentates is different, whoſe Actions are principally to be directed to Fame and Glory.* And for this reaſon Q. (b) *Elizabeth* in her private Letters to K. *James*, was uſed to admoniſh him, *that a Prince muſt be ſuch a lover of Truth, that more credit may be given to his bare Word, than to anothers Oath. I can more willingly loſe my Crowns* (ſaith that glorious King and Martyr (c) *Charles* the Firſt) *than my Credit; Nor are my Kingdoms ſo dear to me, as my Reputation and Honour: thoſe muſt have a period with my Life*, (continues he) *but theſe may ſurvive to a glorious kinde of Immortality, when I am dead and gone. A good Name being the Embalming of Princes, and a ſweet Conſecrating of them to an Eternity of Love and Gratitude among Poſterity.*

And we know, that the man after God's own heart, and a King too, writes, (d) *He that promiſeth to his Neighbour, and diſappointeth him not though it be to his own hindrance*, &c. I do never without Admiration think of that great ſaying of *Charles* the 5th, (Emperour) when he was preſt to break his Word with *Luther*, for his ſafe return from *Wormes*, (e) *Fides rerum promiſſarum* (quoth he) *etſi*

* Reges ſunt Dii terreſtres.

(a) Tacit. Ann. lib. 4.

(b) Cambd. and Baker vita Elizab. Reginæ.

(c) Εἰκὼν Βασιλικὴ Meditation 15.

(d) Pſal. 15. 5.

(e) Xenocarus vita Caroli 5.

etsi toto mundo exulet, tamen apud Imperatorum eam consistere oportet] **Though the Faith of Promises should be banish'd out of the world, yet it ought alway to finde Sanctuary in an Emperor's breast.** And to this vertue even (*f*) *Campanella* the Jesuite doth vigorously advise *Philip* the 2d of *Spain*: *For nothing* (saith he) *doth more effectually oblige the Subject to the Prince, than Fidelity of Promises. By this means* (continues he) Alexander Farnese *Duke of* Parma, *contain'd the* Netherlands *in Obedience to* Spain, *whereas the Duke of* Alva *by the contrary course lost them.* And this will not seem strange to a man that shall consider, that [*Fides* (as (*g*) *Tully* saith) *est justitiæ fundamentum.*] **Faith is the Foundation upon which Justice is built,** [*Justicia vero nulla esse potest* (saith (*h*) *Boterus*) *nisi conventionum fuerit & promissorum certa fides, ac necessaria solutio rerum creditarum*] **But there can be no Justice without performance of Promises, and fair satisfaction of Debts.** And this most of all in the Case of Princes: For, (as (*i*) *Bodine* affirms) [*Cum summus Princeps mutuæ fidei inter privatos ac Legum omnium ultor & vindex est, quanto magis datam a se fidem ac promissa servare tenetur?*] *When a Prince is himself to avenge the violations of Faith and Laws among his Subjects, how much more then ought he himself to observe his own Faith and Promises?* And in this very point he voucheth there a Judgement of the Court of *Paris* against *Charles* the 9th of *France*, and a little after adds, [*Itaque in Judiciis cum Fides Principis agitur*, &c.] *Therefore* (saith he) *when the Faith of a Prince happens to be debated in Judicature, we are rather to consult the benefit of the Subject, and in such case to treat the Prince more severely. Regum est* (saith the Illustrious (*k*) *Grotius*) *religiose Fidem*

(*f*) Spanish Monarchy, *Chap.* 27.

(*g*) Cicero 1 Offic.

(*h*) Boterus de politia, lib. 2. c. 6.

(*i*) De Repu. Lib. 1. c. 8. Fortescue c. 27.

(*k*) De Jure Belli & pacis, Lib. 2. *cap.* ultimo.

dem colere, primum Conſcientiæ, deinde & Famæ cauſa, qua ſtat Regni Autoritas. **Ne dubitent igitur eos, qui Ipſis fallendi Artes inſtillant, id ipſum facere quod docent.** *Non poteſt diu prodeſſe Doctrina quæ hominem hominibus inſociabilem facit, adde & Deo inviſum. Itaque Fide ſublata Principes Feris erunt ſimiles, quarum vim omnes exhorrent* (ſaith (*l*) *Tully*). Certainly Kings are as Gods upon Earth, *Et cum Deus ſemel locutus eſt. And when God hath once ſpoken the word, this Promiſe is not to be altered. Ego ſum Deus, & non mutor.*

(*l*) Cicero pro Q. Roſcio.

And this indeed is no more than what the Municipal Laws of this Kingdom (*m*) warrant, which ſay, that the Grants of the King are to be Expounded liberally, and with all imaginable favour to the Subject, for the Honour and Dignity of the King: as alſo, that the King's * **Teſte Meipſo** is *Recordum Superlativum, a Record of the higheſt Puiſſance and Grandeur.* I have the more largely here dilated upon this Subject, that I might with a greater clearneſs diſcloſe the Poyſon of this Advice, it being ſo apparently contrary to his Majeſty's moſt gracious Promiſes and Declarations, Printed and promulgated by his own immediate Order; and particularly that of the 18th of *June* 1667. (of which ſeveral Copies then Printed were preſerv'd by my ſelf and others, as the higheſt Muniments and Securities for our Moneys in the *Bankers* hands.)

(*m*) Cooks 11 Rep. Magdalen Colledge Caſe.

* Cowels Interpreter *verbo King.*

This is ſtiled, *His Majeſties* * *Declaration to all his loving Subjects, to preſerve inviolable the Securities by him given for Moneys, and the due courſe of payments thereon in the Receipt of the* Exchequer. In this Declaration (about the middle) theſe very numerical words following are inſerted: *And that We will not upon any occaſion whatſoever, permit or ſuffer any Alteration, Anticipation, or Interruption*

* See this Declaration in the end of this Treatiſe.

uption to be made of our ſaid Subjects (that is, of he *Bankers*) *Securities, but that they ſhall from ime to time receive the Moneys ſo ſecured unto them upon ſeveral branches of the Royal Revenue, and ther late Acts of Parliament*, ſaith the Preamble) *n the ſame courſe and method, as they were charged nd ought to be ſatisfied.* Immediately after follow heſe remarkable words: *Which Reſolution we* **ſhall** *likewiſe hold firm and ſacred in all* **Future** *Aſſigne-ments and Securities* **to be** *by Us granted upon any* **Other** *advance of Money by any of our Subjects*, (note his is general) *upon any* **Future** *Occaſion for Our ervice. And we cannot doubt, upon the publiſhing of his Our* **Royal Word** *and Declaration of Our* **Sincere Intention**, *but that all reaſonable perſons will reſt ſatisfied*, &c.

I would now deſire my Reader to fancy a *General Council* of *Angels* and *Men* call'd and aſſembled, and the point propos'd to their Debate to be no other, than by what Care and and Vigilancy of Words and Language ſo great a Calamity might have been prevented; I demand then whether the *Providence* and Jealouſies of ſo wiſe and numerous a *Convention* could have deviſed Expreſſions more *adæquate* and full to this purpoſe, than thoſe I have already recited?

Neither will it be an Obſervation perhaps altogether immaterial and impertinent, that in the very next Seſſion of Parliament, *viz.* in the *October* immediately following, the Statute of the 19th of his now Majeſty, *cap.* 12. (which I have before recited) was made, as it were in Buttreſs and ſupport of this Royal Edict and Declaration.

Theſe things ſtanding thus, as *I* have repreſented them, however the King's *Honour* and *Juſtice* (like a Rock of Diamonds) remains ſtill Impenetrable; neither is his ſacred Majeſty in this caſe

any

any more to be accuſed of the breaches of *Fideli* than the chaſt *Lucretia* was guilty of Incontinenc when wearied out and forc'd by the Adultere

(*m*) *St.* Aug. de Civitate Dei.

[*Duo fuerunt*, (ſaith the holy (*m*) Father) *at un commiſit Adulterium*] Two they were, yet but o of them committed Sin.

When Judge *Thorp* was Condemned to Death Parliament for Bribery, The reaſon of the Judg ment is given, [*Quia* (ſaith the (*n*) Record) *pr dictus Willielmus Thorpe ſacramentum domini Reg quod erga populum ſuum habuit cuſtodiendum, malic oſe, falſe, & rebelliter fregit, &c.* Becauſe the ſai *William Thorp* had broken the **Kings Coron tion Oath** (*it doth not ſay his own Oath, but t* **Kings Oath,** that ſolemn and grand Oblig tion, which is the Security of the whole Kingdom and the Knot of the Diadem). As the Kings Oat then may be broken by others, (his own unſpot ted Honour and Juſtice unviolated) ſo likewiſe ma his Royal Faith, and Gracious Promiſes, as in ou Caſe.

(*n*) Rot. Par. 24 Ed. 3. pars 3. Memb. 2. in Dorſo. Et Rot. 25 Ed. 3. Par. Num. 10. Cooks 3 *l.* Inſtitut. 145. and 223.

The ſumme total then of that which hitherto hath been ſaid, amounts to this; That this Deb hath been ſecured to the Subject, Firſt, by the po ſitive *Common Law of this Land*. Secondly, by ex preſs *Act of Parliament*. Thirdly, by the *Roya Publick gracious Declarations*. And now if ſo pu iſſant an Union of *Guaranties*, ſo Sacred a *Triumvirate* of Securities, have received no Reverence, no Devotion, from this Adviſor; but if (like another *Sampſon*) he hath broken a *three-fold Cord* of this ſtrength, I would be glad to know that *Sublunary* Obligation which would have been proof againſt the Batteries of this Perſons *Counſels*. And I think all men will conclude, that we are more obliged to his *Majeſties Grace and Goodneſs*, *than* to this Adviſors *Infuſions*, that there is yet any *Property* remaining in *England*.

Sect.

SECT. V.

THAT no man is chargeable here, with Impoſitions but by his own Conſent. The Felicities of this State in all Ages under the Influence of this Maxime. The Zeal of Antient Parliaments in opening the Exchequer, though the Kings Debt to the Subject ſecured but upon a ſingle Talley, and though the Debt of his Predeceſſors. Inſtances hereof produc'd out of the Rolles of Parliament in ſeveral Kings Reigns. An Application of the ſaid Inſtances to our Preſent Caſe of the Bankers. *Preſidents of ſeveral Princes of this Realm which made Voluntary Payments, not only of their own, but even of their Predeceſſors Debts; and others that reſtored Monys to the Subject Extorted by evil Counſels. Some Ancient Forms of Stopping the Exchequer produced, and the great Diſparities between thoſe and our Stop demonſtrated. That the redreſs of Grievances of this, and other Natures, is one of the Prime Ends of Parliaments. That the Kings of* England *have invited the Subjects to repair to their Parliaments to that End; and divers Inſtances thereof.*

That

That ſome Parliaments have been called only for Redreſs of Grievances; and ſundry Inſtances thereof.

THE (a) Laws of *England* ſuppoſe every Subject to be preſent in Parliament, either in his own Perſon, or in that of his Repreſentative by himſelf freely choſen. And therefore among other Politique Conſtitutions of this Realm, it is not the leaſt *That the King may not alter the* **Property** *of his People by way of Impoſition, or like Burthens, but by their* **Conſent** *in the ſaid Court. Rex Angliæ* (ſaith (b) Forteſcue) *neque per ſe aut Miniſtros ſuos Tallagia aut alia quævis ONERA imponit Legeis ſuis ſine Aſſenſu totius Regni in* PARLIAMENTO. That this was the Original Common Law of *England*, do h * appear (among other Evidences I could produce) by the laſt Chapter of *Magna Charta*, where (for the Conceſſion of thoſe Liberties) the Prelates, Lords, and Commonalty gave the King the Fifteenth part of their Moveables. And to this purpoſe ſeveral likewiſe of our Printed Statute-Laws are moſt expreſs. *Moreover* (ſaith King *Edward* the firſt in his (c) Statute of 25th. *We have granted for us, and our Heirs, to all the Subjects of our Realm, that for no Buſineſs we ſhall take Aydes, Taſks or Prizes, but by the* **Common Aſſent** *of the Realm, and for the common Profit thereof.* And the Statute, de (d) Tallagio non concedendo, is, *That no Tallage or Ayd ſhall be Set or Levied by us or our Heires in our Realme, without the* **Good Will** *and* **Aſſent** *of Archbiſhops, Biſhops, Earls, Barons Knights, Burgeſſes, and other Freemen of the Land.* And King Edward the 3d. * *Grants for himſelf and his Heirs, that his People ſhall not be charged nor grieved to make any Ayde, or to ſuſtain Charge, if it be not by the common*

(a) 1 Jac. cap. 1. *Smith's Common-wealth*, Lib. 2. cap. 2. Doctor & Student, 146. a. b.

(b) De laudebus legum Angliæ ca. 36

* *Judge* Jenkins *Works*, pag. 120.

(c) 25 Ed. 1. cap. 6. in Cok. 2 Inſt. 529.

(d) Cokes 2d Inſt. 532.

* Other Statutes made 14 Ed. 3. c. 1. in *Poulton*.

non Aſſent of the Prelates, Earls, Barons, and other great men, and Commons of the ſaid Realm of England, and that in Parliament. And theſe Statutes were confirm'd alſo in 30 *Caroli* in the * *Petition of Right*. Now what can be more reaſonable or juſt, than for a man to be bound by Laws devi'd by himſelf, or at leaſtwiſe by prudent and faithful Procurators of his own chooſing? That this Maxime hath been fortunate to the Engliſh Nation, will be moſt evident, if we ſhall conſider, that under the ſweet Influences thereof, *Peace* and *Loyalty* have been here always cheriſhed, *Induſtry* (the ſpring of Wealth) encouraged, becauſe the Subject was ſecure of reaping the benefit of his own Labour, and *Valour* alſo in all Ages enkindled: For without peradventure, no people preſt with involuntary *Tributes* can be (at all) great, or fit for *Empire*. They may indeed have the Sediment and Dregs of *Courage* (*Sullenneſs* and *Contumacy*, diſpoſing them to *Mutinies* and *Diſcontent*) But for thoſe *Heroick*, and brave *Paſſions* which *inflame* Mankinde to the Conſervation or Inlargement of *Dominion*, they are not eaſily capable thereof. To which I ſhall onely add, what one of the beſt * Princes that any Age ever afforded, hath publiſh'd to the World, *That no King is ſo great, as he that is King of a Rich and Free people; and if* (ſaith he) *they have not Property of Goods, and Liberty of Perſon, they can be neither Rich nor Free.*

* Poulton's *Statutes* 3 Caroli 1.

* *King* Char. 1. *in the great Volume of his Works, among the Declarations* fol. 40.

This vital Law of *Property* hath ſometimes laboured under ſiniſter Counſels, and as often hath been relieved by the *Parliaments* of thoſe Ages: and when the *Prerogative* hath at any time broke through its Banks, and ſo endangered the publick Liberty, the Baronage, and Commons of *England*, (the true *Conſervators* of theſe Sea-walls) have conſtantly haſtened in to the repair of the *Breaches*.

And

And as their care of the Common *Property* hath been great and Invincible in the general, ſo more particularly in Caſes of the *Soveraign*'s *Debts* to the Subject. The Court of *Parliament* was the *Sanctuary* whither the diſtreſſed Subject in this Exigence fled for *Shelter* and *Refuge*, and always found it. Into the ſacred *Boſome* of *Parliament* it was, that they poured out their *Sighs* and *Groans* with conſtant ſucceſs: and when in caſes of this nature the *Common Law* was arreſted and ſtopt in her Proceedings, *Parliaments* evermore ran into the *Reſcue*, and in dutiful ways diſcharged thoſe Locks and Bars which had been unjuſtly faſtned on the *Exchequer*. And that not where there were publique *Declarations* of the Prince, and *National* Tyes (for I think thoſe were never before infring'd) but even where the Subjects Debt was founded upon the bare ſecurity of a *Tally* or *Debenture*, or the like. Inſtances of this kinde, I have ſeen not a few; inſomuch that the plenty of them hath rendred me indigent in this particular, and I ſhall perhaps be more incumbred herein to omit, then to recite *Preſidents*.

* Rotulo Parl. 4 Ri. 2. *numero* 45.

The firſt * Record I produce then, ſhall be that of 4 *Rich.* 2. The *Commons* Petition *that* King to order the payment of his Grandfather King *Edward*'s Debts, by *Talleys* or otherwiſe, and more eſpecially of certain ſums of Money, which the ſaid King *Edward* had borrowed of divers of his Subjects in ſeveral parts of this Realm. And truly they ground their Petition upon a reaſon ſo briſk and pungent, that I mean to recite it in the very words of the Record. [*Pur bone Enſample* (ſaith the Roll) *as Leiges noſtre ſeignior le Roy, deſtre le pluis preſtes, a apreſter a noſtre dit ſeignior le Roy que ore eſt, en Ayde de luy, et tout le Kealme, ſi ſuddaine Caſe de Neceſſity aveniſt*] *For good Examples ſake* (ſay

ſay they) *and encouragement to your Majeſties Leiges and Subjects, to lend your Majeſtie Money, in aid of your Majeſtie and the whole Kingdom, if a ſudain caſe of Neceſſity ſhould chance to come.* The King (it ſhould ſeem) did well approve of their Petition and Reaſon: for he makes anſwer, *That their requeſt is in good meaſure fulfilled already, and for the remainder, it ſhall be done according to the Petition.*

In the * Parliament of 6 *H.* 4. the Commons pray the King, That all *Talleys* given by his Majeſty for money lent to him by his Subjects, may be ſatisfied according to the true purport of the ſaid ſecurities. [*Et que Treaſorer d'Angliter ſoit charge de ceo* (ſaith the Roll) & auri de changer les dits Talles ſil d'unboſoigne, pur cauſe de changer les Miniſters & Officers du Roy, non obſtant aſcun Breife ou Maundment al contrary, *ou autrement pluſors de vos Leiges, ſont diſtreints pur touts Jours.*] *And that the Treaſurer of* England *be charg'd therewith,* and alſo to renew the ſaid Talleys if there be cauſe by reaſon of any change made of the King's Officers and Miniſters, notwithſtanding any Writ or Command to the contrary, *or otherwiſe many of your poor Leiges will be utterly undone.* The King's Anſwer there is very gracious, *That good Payment ſhall be forthwith made of the ſaid Debts.*

* Rot. Parl. 6 *H.* 4. *numero* 53.

The next * Roll that I open, ſhall be that of 50 *Ed.* 3. Entituled, [*Des Lettres du Treaſorer, countremaundants les Maundments du Roy.*] *Of the Letters of the Treaſurer, countermanding the Commands of the King.* The Record is rare and ſhort, and contains within it ſomewhat that is ſingular as to the Shutting and Opening of the *Exchequer* in that Age. And therefore I ſhall crave leave to tranſlate

* Rot. *Parl.* 50 Ed. 3 *num.* 176 *vel* 185. Cotton's *Abridgment of the* Records, *fol.* 138.

tranſlate it *verbatim* from the old *French*. Item the Commons pray that a fit Remedy may be Ordained to a *grand miſchief*, done to the Lords, and other of the Commons of this Realme, that whereas they had accounted with the Treaſurer for their Salaries and Fees, and the King had been found indebted to the ſaid Lords, to ſome in One Thouſand pounds, to others in Two thouſand pounds, more or leſs, and that *Talleys* and *Letters of Privy Seal* had been thereupon delivered unto the ſaid Lords, for Payment as aforeſaid, at Ports and Days certain; and that (confiding in theſe Aſſignations) they had oblig'd themſelves to Pay ſuch and ſuch ſums to their Creditors, at the ſame mentioned days of Payment: *But now of late, in Avoydance of the Premiſes, the Treaſurers have uſed to ſend Letters under their own Seals, to countermand the Moneys Aſſigned by the ſaid Privy Seals*; whereupon the ſaid Lords, and their Creditors are deceived, unto their great Damage and Loſs; and therefore they Pray Remedy to be Obtain'd. [*Que nul Treaſorer* (ſaith the Roll) *neit poyer de ſurmountre per ſa Lettre, la Lettre le Roy*] *That no Treaſurer have power to* Surmount, *or over Rule with his own Letter, the Letter of the King.* The Kings Anſwer there is ſhort, and very Gracious, *viz. Le Roy le Voet*, The King Willeth that the Petition be granted.

(*i*) Rot. *Parl.* 2 *H* 6. Num. 22.

It is (*i*) Enacted that the Executors of *H.* 4. and *H.* 5. ſhall pay all the Debts of thoſe Kings due by *Talleys* or Debenters.

(*k*) Rot. *Parl* 12, & 14 *E.* 4. Num. 56.

At the Petition of the Commons (*k*) Enacted. That all Moneys owing by King *Edward* the 4*th*, from the Tenth Year of his Reign, upon *Patent*, *Talley*, or *Bill*, made, reared, or aſſigned for the Kings Houſhold, Chamber, Wardrobe, Warks, or *Money lent to him by the Subject* for vittailing of Callice, *or for any other cauſe, and due in the Times of di-*

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vers persons late Treasurers of England, be justly paid and satisfied. And Proclamation is there ordered to be made of this matter throughout the whole Kingdom, that the Subject might repair to the *Exchequer*, to have his Debt stated, and paid. And every Sheriff that made default in Proclaiming, was (by expres's provision of this Act) to forfeit no less than 100 *l.* A true Copy of which Proclamation (for the *Rarity* of the *President*, and that Posterity may perceive the *Honour* and *Justice* of that Age) I have thought fit to Transcribe *verbatim* in the end of this Treatise.

(*l*) Enacted that the Bishop of *Wincheſter*, (then the Kings Uncle, and commonly called the *Rich Cardinal*) shall have Letters Patents to be Payd out of the Customes Twenty thousand Marks, which he had lent to the Kings Father, King *Henry* the Fifth. (*l*) Rot. *Parl.* 2 H. 6. Num. 26.

Thomas (m) *Chaucer* chief Butler to the King, prayeth that the Executors of King *Henry* the 4*th.* may pay to him 868 *l.* for *Wines* taken up for that King, and due to the said *Thomas* upon *Talleys*; whereto the King granteth. (*m*) Rot. *Parl.* 2 H. 5. Num. 18.

And afterwards, in the same Parliament (*n*) *Marke le Faire* petitions the Lords and Commons that he my be paid 447 *l.* due fot *Cloath* and *Wines*, by him sold and delivered to the Treasurer of the Houshould of King *H.* 4. for the use of the same King, secured upon *Talleys*, and to be paid by the Executors of the said King *Henry* the 4th: and this he prays may be done (according to the Religion of those times) *in discharge of the Soul of the said late King, which otherwise* (saith the Petition) [*ſera en graund Perill*] *would be in great peril*; and in preservation of the poor Estate of the said Petitioner. The which is granted by the said King *Henry* the fifth. (*n*) Rot. *Parl.* 2 H. 5. Num. 22.

(o) Rot. Parl. 3 H. 5. pars ſecunda Num. 22.

(o) The Commons deliver a Petition to the King for *John Shadworth* Citizen and Mercer of *London*, to be paid 53 l. owing to him for certain *Spicery* delivered into the King's Houſhold: the which is granted. And in the very next (*p*) *Numero*, the like Petition and Anſwer is made to *Henry Barton* for 383 *l.* upon *Talleys*, for certain *Furrs* delivered by him into the Wardrobe.

(p) Ibid Num. 23.

I ſhall no farther engage my Reader in Preſidents of this Nature, but will now make an Inference or two from the premiſed Records.

Did theſe Parliaments of old then *Sympathize* ſo far with their Fellow-Subjects in Caſes of *voluntary Loans of Money?* In matters of *Sallary*, and *Wages?* and theſe ſecured onely upon a *ſingle Talley* or *Debenture?* Did they (thus in dutiful ways) wreſtle with their Soveraigns for payment even of their *Predeceſſors Debts?* Did they thus open their Arms ſo wide to relieve *Particular Perſons?* A *Biſhop?* A *Butler* of the King's? Nay, a *Poor ſingle Tradeſman?* A *Mercer?* A *Draper?* A *Vintner?* or the like? What then would they have done, if theſe Moneys had by evil Counſels been *Raviſh'd* from the poor Subject, and taken *without his Conſent?* If they had been ſecur'd not only upon a bare *Talley*, but upon their *Prince's Publick Declarations*, and their own *National Eſtabliſhments?* If the *Debt* had been owing by their *preſent Soveraign?* and the *Non-payment* thereof would have turned to the *Ruine* of ſome *thouſands of Families*, conſiſting in great meaſure of *Widows*, *Orphans*, *Infants*, *Helpleſs Decrepit Perſons?* Nay, of thoſe which before that time had been *Ruined* in their *Eſtates*, for the *Fidelity of themſelves*, *or their Anceſtors to the Crown of* England? I ſuppoſe it would be no hard matter to gueſs what Determinations *theſe* Parliaments would have made in

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ſo paſſionate a *Calamity*; neither ſhall we need to reſort to an *Oracle* to know whether in probability, they would have endeavoured the **Opening** of the **Exchequer** or not.

And as I have thus already produced Inſtances of *Crown-Debts* paid by the *Sollicitation* and *Importunity* of *Parliaments*, ſo I will now ſhew *Preſidents*, where ſundry *Princes of this Realm* have upon their own Royal *Compunctions*, and natural *free Graces*, ſatisfied not only their own *perſonal Debts*, but even thoſe of their *Predeceſſors*. Nay, where they have *reſtored* thoſe very *Moneys* to their poor Subjects, which had been *extorted* from them by *ſiniſter waies and Advices*,

Edward *the Confeſſor reſtored the Dane-gueld* Money (a grievous Tax, formerly in uſe here) to the perſons from whom it was *Exacted*; it ſeeming to that pious Prince (as no mean (1) Authors write) that he ſaw the *Devil dancing and Triumphing for joy* upon that vaſt heap of *Treaſure*, when he was conducted by his Officers to view the ſame. And (by the way) this * Act of ſingular Piety he did, when his people laboured under a *dreadful Famine*, with which God Almighty hath lately threatned us in this Realm, neither are the Footſteps thereof yet altogether defaced.

(1) *Polydore* Virgil. *Ribadinira*, *Copgrave*, *Surius*.

* Seldens *Mare Clauſum*, Lib. 2. Fol. 172. Spelm. *Gloſſary in titulo* Danegueld.

I finde in the Clauſe (2) Rolls of King *Edward the Second*, that he directed his Writs to his Collectors of his Cuſtoms, requiring them to *pay certain vaſt Sums of Money to the Creditors of his Father* (King *Ed.* 1.) out of the ſaid Cuſtoms, and 100000 *l. beſides* [*pro damnis occaſione retardationis ſolutionis Debiti*, &c.] *for the Damage, by reaſon of the late and ſlow payment.*

(2) Clauſ. 3 *Ed.* 2. *Membrana.* 16. *in Turri* London.

King *Henry* the 7th often borrowed Money of his Subjects, but (ſaith (3) *Bacon*) moſt duely and orderly paid it back at the day, *This wiſe King* (adds he)

(3) *Hi* H. 7. *Fol.* 77.

ever choosing rather to Borrow too soon, than to Pay too late, and so keeping up his Credit.

(4) Vita Elizabethæ A. D. 1590.

Queen *Elizabeth* (saith (4) Cambden) [*Aversata est acerbitates in vectigalibus*, &c.] *She abhorred those harsh and illegal Tributes which some of her Predecessors* [edulcarunt] *had sweetned with the soft and sugred Names of Benevolence, and amicable Loans.* * And therefore when in the 42 year of her Reign, she had required a *Benevolence* towards her *Irish Wars*, and some Money was thereupon Collected: as soon as ever some of the *Judges* of that time had informed her that the *Imposition was illegal*, she was thereupon highly offended with the *Advisors*, and commanded that no more Money should be *Collected* upon it, and that full *Restitution* should forthwith be made to those which had paid; which accordingly was effected. *And Judge* Hutton *saith there, that the Money he gave was repaid to Him.* [*Quodq; glorioſus & ſubditis longe gratius* (saith the same (5) Author elsewhere) *& magna cum* Londinensium *Lætitia, ſub hoc tempus Patris & Fratris Debita liberavit.*] *And that which was more glorious* (saith he) *and to her Subjects most comfortable, and to the more especial Joy of the* Londoners, *about this time she made Honourable payment even of her Father's and Brother's Debts.* If we talk of *Old Debts* of the Crown, some of these I am sure were Old Debts, with a Witness; for they were of near *thirty years of Age*, (it being near so long from the last years of King *Henry* the eighth, to the 15th of this Queens Reign, at which time she paid the same Debts of her Father.) And was she any looser hereby? certainly No: For by Actions of this nature, she gain'd an *Inexhaustible Mine* of *Treasure* in the *Hearts of her people*, who never denied her any thing, and thereby rendred her self *formidable* to the Enemies of this *State*, and

* Judge *Crook's* Argument of Ship-Money, *p.* 57. And Judge *Hutton's* there, *p.* 43. expres.

(5) *Cambden* Vita *Elizabetha*. A. D. 1573. *Regni* 15.

and her *Fame* commenſurate with all-devouring Time.

And King *James* in his fourth year, (ſaith (6) *Baker*) repaid *threeſcore thouſand pounds* to the *Citizens of* **London**, which they had lent to Queen *Elizabeth* a little before her Death. *An Act* (ſaith the ſame Author) *by which the King gained more in Love, than he paid in Money.*

(6) *Vita Jacobi.*

And to the Immortal Renown of the glorious King *Charles the Firſt:* It is yet freſh in the Memories of many perſons living, that though upon *Juſt Apprehenſions* of the *Scotch-Invaſion* in the Year 39, He did ſuddainly ſtop the Subjects Moneys in the Mint of the Tower; He did yet forthwith ſecure the ſame upon the *Cuſtoms*, and at the end of the ſix Moneths repaid the *Principal* and *Intereſt* even to a very Farthing. An Action ſo full of Glory, that I would illuſtrate it with a Quill drawn from the Wing of a *Cherubin*, if I were able!

I could proceed in Examples of this Nature, but being deſirous to ſpare my Reader, I ſhall now forthwith expoſe to his view one or two Antient *Forms or Preſidents* of Shutting the *Exchequer*, that ſo he may the better perceive the Parallels or Diſparities between theſe, and our modern Stop.

Stopping of the Payments in the *Exchequer* was in former Ages very rare, and never but upon *Invincible Neceſſities*; and yet then alſo bounded with ſuch *Modifications* and *Reſtraints*, that I dare ſay our preſent Stop would not willingly be tryed thereby. I have hitherto diſcovered but two *Preſidents* of this nature any way conſiderable; The firſt, in 12 *H.* 6. the Form whereof I ſhall here Tranſcribe *Verbatim*, as I find it entred both upon the * *Roll* of *Parliament* of that year: And likewiſe as it is recited a little after in the (a) *Writ* directed to the *Treaſurer* and *Barons* for Proclaiming the ſaid Stop in the Court

* *Rot.* Parl. 11. *and* 12. *H.* 6. Nu. 12. *Reſtrictio Aſſignationum ad Summam* MM *l. faciend. pro Theſaur.*

(a) *Communia de Termino* Mich. 12. H. 6. *in Officio Remem. Regis in Scac. Rot. primo.*

Court of *Exchequer*. The words then to a ſillable are theſe,

For as much as the King hath not within his Treaſury for th' Expences of his Hucſhold, nor other charges neceſſary for his Perſon, betwix this and the Quinziſme of *St.* Michael next, Hit is agreed and aſſented the Thirteenth day of Auguſt by Auchoritee of this preſent Parliament, that the Threaſorer of England for the time being, have Power and Auchoritee for the Cauſes above ſaid to Reſtraigne of all manner of Aſſignments made by the Threaſorer of England, afore the Twentieth day of * Juyll laſt paſſed to the ſum of Two thouſand pounds after his Diſcretion: Th' Aſſignments made before this time for the Kings Huſhold, and for Money lent to the King, only except.

(*) The old *Engliſh* word for *July*.

Another like * Reſtraint of Payments I finde ſome years after in the ſame Kings Reign; the which was made only upon *one ſingle Branch of the Royal Revenue, viz.* upon the *Diſme* and *Quinziſme*. It was but for *Ten thouſand Marks*, and that too for Repayment of the *Mayor* and *Conſtables* of the Staple, for the like ſum by them lent to that King for paying off the Soldiers of *Callice*. *It was with an Exception of Moneys lent to the King, and it was alſo done by expreſs Act of Parliament.* From which two *Preſidents*, I ſhall crave leave to make theſe following ſhort Inferences.

* See for this the Year-book of 37 *H.6. fol.*15.a.

Firſt, the ſaid Stops were made upon manifeſt and palpable *Exigences*, *viz.* For the very Expenſes of the *Kings Houſhold*, and other Charges neceſſary for his *Royal Perſon* (to the ſupply whereof, the *Engliſh* Nation was oblig'd in point of *Honour* and *Juſtice*). Again, for the Payment of the Souldiers of *Callice* who'

who upon neglects therein, did often *Mutiny* (as our *Chronicles* relate) to the manifeſt *Peril* of our *Intereſts* in *France*.

Secondly, theſe Stops were but for mean inconſiderable ſums, *viz.* 2000 *l.* one, and 10000 *m.* the other; The firſt ſum amounting at our modern Valuation to leſs than Four thouſand pounds, and the other ſhort of Thirteen thouſand; (the Ounce of Silver being at that * time Two and thirty pence, and now Five ſhillings): But (to avoid Cavil and Diſpute in point of Valuations) I will admit it (for once) to be Ten Times as much, yet ſtill it falls ſhort of Twelve hundred thouſand pounds.

(*) Sr. *John Davis* Rep. 24. *a. b. Le Caſe de* m'xt Moneys and other Authorities there cited. *Eakewil's* Apology Printed at *Oxford* 1635. *f.* 159.

Thirdly, theſe ſums were to be reſtrained after the Treaſurers *Diſcretion*, perhaps that he might be enabled to favour a poor *Orphan*, or *Widdow*; *Or it may be to prefer in point of Payment an* Old Cavalier, *that had been faithful to the Crown of* England, *to the Ruine of Himſelf, and his Poſterity.*

And yet *Fourthly*, (becauſe *Diſcretion* proves ſometimes but a wild and vagous Juſtice, and the Frailties of humane Nature are to be obviated) the *Parliament would not truſt Diſcretion with any greater, than the ſaid mentioned, Sums.*

Fifthly, the ſaid Debts Stop'd do not appear to be ſecured by *Statute-Laws*, and *Royal-Declarations*; And the laſt ſum of 10000 *m.* was chargeable alſo only upon one ſingle branch of the Royal Revenue, the other Branches remain'd ſtill liable to the Subjects Debt.

Sixthly, *here is an expreſs Exception of Moneys lent to the King*, in the Repayment whereof (upon that Reaſon) the Kings *Honour* and *Juſtice* was ſo deeply concern'd.

And *Laſtly*, (which takes off all the poſſible ſubterfuges and Cavil of Mankind) *the ſaid Moneys* (though moſt pitiful and wretched Sums, yet) *were*

not Reſtrain'd without the Pomp, Solemnity and Grandeur even of a very Act of Parliament; and therefore done by the *Univerſal Accord* of the Kingdom, and ſo by the *Conſent* of the very Individual Perſons therein concern'd, who could never pretend any wrong done to themſelves herein, when they had before bound up their own wills, in the Deeds and Conceſſion of their *Repreſentatives*.

I ſhall not ſo far diſtruſt my Readers *Ingenuity*, as here to make any induſtrious, or ſet *Application* of the Premiſes to our preſent *Caſe of the Bankers*, &c. The *Diſparities* in each of my ſaid Inferences I think will be obvious enough to the meaneſt Underſtanding. I ſhall therefore now haſten to produce certain *Preſidents* where Parliaments have been purpoſely Summoned to relieve Preſſures of theſe and like Natures.

(q) 4th. Inſtitutes. Fol. 11

The Lord Chief Juſtice (q) *Cook* tells us, *That one of the Principal Ends of calling Parliaments, is for the Redreſs of Grievances.* And the *Mirror of Juſtices* (An Ancient and Learned (r) Treatiſe of the Law) ſaith, *that Parliaments were Inſtituted* [*Pur Oyer & terminer les* (ſ) *Plaints de Torts de le* Roy, *de la Roigne, & de lour Infans, & de eux eſpecialment de queux Torts lun ne poiet aver autrement common Droit.*] *To hear and determine the Complaints of the wrongful Acts of the* King, *the Queen, and their Children; and eſpecially of thoſe Perſons againſt whom the Subject otherwiſe could not have common Juſtice.* And the ſame Author in another (t) place reckons it among the Abuſions of the Law, that this Court ſhould be aſſembled. [*Fortſque pur Aydes & Cuilets de Treaſore*] *Only* (ſaith he) *for Subſidies and Leavies of Money. Item,* (ſaith the * Statute of 36 Ed. 3). *For maintenance of* Magna Charta *and other Statutes, and Redreſs of divers Miſchiefs and Grievances which daily happen, a Parliament ſhall be holden every Year*, &c. And

(r) Cokes *Preface* to the 9th. Rep.

(ſ) Mirror of Juſtices, *Chap.* 1. pag. 9 b.

(t) Chap. 5. pag. 282.

* 36 Ed. 4. cap. 10.

And * *Knyghton* (one of our exacteſt *Hiſtorians*) doth notably diſcloſe the *antient Ends* of calling *Parliaments*, in the *Speeches* made by *Tho. de Woodſtock* Duke of *Glouceſter* the Kings Uncle, and *Tho. de Arundel* Biſhop of *Ely*, to King *Richard* the 2d. at *Eltham* in the Twelfth of his Reign, in the name of the whole *Parliament* then ſitting at *Weſtminſter*; wherein the ſaid *Delegates* do put that King in mind, *Quod ex antiquo Statuto, & Conſuetudine laudabili & approbatâ*, &c. (ſaith the Hiſtorian) *That by antient Statute, and Cuſtome laudable and approved, which no man could deny, the King may once in the Year convene his Lords and Commons to his Court of Parliament, as to the higheſt Court of the whole Realm.* [In quâ omnis Æquitas relucere deberet, abſque qualibet ſcrupuloſitate vel nota, tanquam Sol in aſcenſu Meridiei; ubi pauperes & divites, pro Refrigerio tranquillitatis & pacis, & Repulſione Injuriarum, refugium infallibile quærere poſſent, ac etiam Errata Regni reformare, & de Statu & Gubernatione Regis & Regni cum ſapientiori Concilio Tractare; ut Inimici Regis & Regni intrinſeci, & Hoſtes extrinſeci deſtruantur & repellantur, qualiter quoq; Onera incumbentia Regi & Regno levius ad Ediam Communitatis ſupportari poterunt]. **In which Court** (ſay they) **all Equity ought to ſhine forth, without the leaſt Cloud or Shadow, like the Sun in its Meridian Glory; where Poor and Rich, refreſh'd with Peace and Eaſe of their Oppreſſions, may always find infallible and ſure Refuge and Succour; the Grievances of the Kingdom Redreſt**; *and the State of the King, and Government of the Realm Debated with wiſer Councels; the Domeſtick and Forreign Enemies of the King and Kingdom deſtroy'd and repell'd, and to conſider how the Charges and Burthens of both may be ſuſtain'd with more Eaſe to the People.* And

(*) *De Eventibus Angliæ*, Lib. 5. fol. 2681. Col. 1. 2

And (if I may winde up this Pin one Note higher) I could tell my Reader, that a certain printed * Statute-Law Enacted by no meaner a Prince than King *Edward* the Third, contains these very words following, *viz.* **That the Right of the Crown of England, and the Law of the ſaid Realm is ſuch, that upon the Miſchiefs and Damages which happen to the Realm, the King ought, and is bound by his Oath, with the Accord of his People in his Parliament, to make Remedy and Law, in removing the Miſchiefs and Damages which thereof enſue.** Which Clauſe is notably explain'd by the ancient * *Modus tenendi Parliamentum*, in theſe numerical words: *Parliamentum departiri non debet, dummodo aliqua Petitio pendeat indiſcuſſa, vel ad minus ad quam non ſit determinatum Reſponſum; Et ſi Rex contrarium permittat, perjurus eſt*, (ſaith that Treatiſe.) And we are not wanting in *Preſidents* even of this ſaid *King Edward*, and ſome other of our *Greateſt Princes*, which have accordingly encourag'd and invited the poor Subject to reſort to the Courts of *Parliament*, and there to expoſe their *Injuries* and *Oppreſſions*, in order to ſpeedy Relief.

I finde among the Clauſe * Rolls of *Edward* the firſt, that this King did appoint certain ſelect Perſons of the Clergy and Laity, to examine the wrongs done to his People [*per Miniſtros noſtros.*] *by any of his Miniſters*, in order to the Redreſs thereof in the Parliament then approaching. And thereupon (by his *Writs* directed to all the Sheriffs of *England*) commands them openly to publiſh the ſame to all his people, that they may reſort to the ſaid Commiſſioners. [*Sibi ſua gravamina fideliter oſtenſuri & proſecuturi*, &c.] *to expoſe their Grievances faithfully to them, and to proſecute their Oppreſſors.*

And

* 25 *Ed.* 3. of Proviſors printed in *Poulton. Cook's* 4 *Inſt. Fol.* 11.

* In the beginning of the Chapter *De partione Parliamenti.*

* 17 Ed. 1. Dorſo *memb.* 2. *Quod vicecomes ſcire faciat illis, qui de Miniſtris Regis ſe conqueri voluerint, quod veniant apud* Weſtm. &c.

And in the like manner King *Ed.* 3. did * command all his Sheriffs to make ſpeedy Proclamation all over the Kingdom, That ſuch of his people which had been oppreſt or grieved, not onely by his Ordinary Miniſters; but (ſaith the Roll) [*Auxi per aſcuns Grantz de noſtre Realm, auxibien noz* **Counſeilers**, *come autres, a dammage et Diſhoneur de Nous.*] *But even by our Grandees, as well our* **Councellors** *as others, to our Damage and Diſhonour*, ſhould forthwith repair to his Parliament then near at hand, and there to receive from his Royal Hands ſpeedy help and Conſolation.

* Clauſ. 4. Ed. 3. M. 18. Dorſo *De conqueri volentibus ad Parliamentum veniendum.*

Nay, Declaration was openly made in the * Parliament of the 15*th* of the ſame King (by his eſpecial Command) [*Que cheſcun* (ſaith the Roll) *que ſe ſente grevez per le* **Roy, ou ſes Miniſtres, ou Autres** *que ils metroient lour Petitions avant, & ils averont bone & covenable Remedy*] *That all people which found themſelves agrieved in any matter, even by the very* **King himſelf, his Officers or Others,** *ſhould bring forth their Petitions, and thereupon ſhould have good and convenient Remedy to them Ordained*

* Rot. *Parl.* 15 *Ed.* 3. *Numero* 5.

In the * Writs of 21 of the ſame King, directed to all the Sheriffs of *England*, to chooſe Knights and Burgeſſes for the enſuing Parliament, I finde inſerted this following Clauſe (which for the Dignity thereof I would Tranſcribe with a *Beam of the Sun*, were I able) [*Et ſcire vos volumus, quod dictum Parliamentum, non ad Auxilia ſeu Tallagia à populo dicti Regni noſtri petenda, vel alia Onera eidem populo imponenda, ſed duntaxat pro Juſtitiâ, ipſi Populo noſtro ſuper Damnis & Gravaminibus ſibi illatis faciend. fecimus ſummoneri.*] **And we will you to know** (ſaith the King) **that we have not Summoned the ſaid Parliament in Order to the Demand of Subſidies and Taxes from**

* In Clauſ. 21 *Ed.* 3. *pars* 2. *da.* Dorſo Memb. 9.

from the People of our ſaid Realm, or to impoſe other Burthens upon our ſaid People, but onely and ſingly for the Adminiſtration of Juſtice to our ſaid People in relation to any Oppreſſions and Grievances to them done.

I ſhall now draw towards a Concluſion of this Section, with a notable * Record of the *Parliament* of the 37th of the very ſame King, as I finde it entred upon the Roll. *Simon de Langham* (Biſhop of *Ely*, and Lord-Chancellor) *in the preſence of the King, Lords, and Commons, declares the onely cauſe of Summoning this Parliament to be, for the Redreſs of Grievances*, viz. *That the King having well conſidered the great Goodneſs of God, eminently vouchſafed unto him in all his Mighty and Important Affairs; as alſo the extraordinary Aids given to him by his Nobles and Commonalty, and the manifold perils by them ſuſtained in his Wars; He did now therefore call them together* (as it were out of the Sentiment of his Obligations, *Firſt*, to God, and then to his Subjects) *in order to the firmer eſtabliſhment of the* Franchiſes *of Holy Church, and to the Redreſs of the* Grievances, Outrages *and* Miſchiefs, *done as well to his* Nobles *as* Commonalty, *againſt the Laws of the Land: And thereupon the King willeth* (ſaith the Chancellor) [*Qui ſi ul ſe ſente greivez, mette avant ſa Petition en ce Parliament, & il en avera covenable Reſponſe*] *That if any perſon finds himſelf agrieved, let him but Exhibit his Petition in this Parliament, and he ſhall ſpeedily receive convenient Remedy:* And thereupon Receivers and Tryers of Petitions were aſſigned, and all the Grievances of the Kingdom redreſſed, to the unſpeakable Joy and Conſolation thereof.

* Rot. *Parl.* 37 *Ed.* 3. Num. 2.

And for the like Reaſons, the ſame King about five

five years after Summoned another Parliament, *where the Arch-Biſhop of* Cant. (ſaith the * Roll) *in preſence of the King, Prelates, Dukes, Earls, Barons, and Commons aſſembled in the Chamber* de * Pinct, *declares, That his Majeſty did render hearty thanks to Almighty God for his Victories over his Enemies, for the peaceable Government of his people, and alſo for the great Aids and Succours which his Lords and Commons had in all his Affairs adminiſtred unto him, both in Body and Goods; and that for theſe Cauſes, the King deſiring to nouriſh and improve the peace and happineſs of his people, and to Reform and Redreſs whatſoever might obſtruct the ſame, he had convened the preſent Parliament: whereupon the King Wills and Commands* (ſaith the Arch-Biſhop) [Adeprimes que tous ces que ſe ſentent greivez de riens, mettont avant lour Petitions en ce Parliament a ces que ſont aſſignez de les reſcieure, & ſerront bonement reſceux & reſponduz] *That in the firſt place, all Thoſe who found themſelves agrieved in any matter, ſhould forthwith in this Parliament prefer their Petitions to the perſons appointed to take them, and they ſhould be well received, and anſwered*: And it appears they were ſo, by the following Rolls of that Parliament.

* Rot. *Parl.* 42 *Ed.* 3. Num. 2.

* Painted-Chamber.

And who was it do we think that Treated his People with all this *Clemency* and *Sweetneſs?* was he a Prince deficient either in *Courage* or *Wiſdome?* I think no man will be of that mind, when I ſhall have told my Reader, It was no other than that Great *Edward* the 3*d*, the *Arbiter*, and *Ballance-holder of Chriſtendom!* to whoſe Court (as to a *Sanctuary*) all injur'd Princes fled for Succour, and conſtantly found it! That Great *Edward* * *Vicar General of the Empire*! at whoſe Royal Feet the *King-ſhip* of the *Romans* lay proſtrate, begging for acceptance, and yet *He* would not ſtoop to take it up! *That*

(*) *Conſtitutiones Imperiales*, Tomus 3. Fol. 411.

Great

Great Edward, who had ſubjugated the Warlike *Scots*! That with his tremendous Sword had cropt the Lilies of *France!* And that had led *Captive* after his *Triumphal Charriot* the * Two *Mighty Princes* of both thoſe puiſſant Nations.

(*) John *of* France. David *of* Scotland.

I could yet proceed in *Inſtances* of this kind, during the Regiment of other Kings of this Realm, but that I do here (as all along in this *Diſcourſe*, for ſo far as the *Dignity* of my *Subject* will bear it) conſult *Brevity*. I ſhall only tell my *Reader*, that I have thought fit to lay my *Scene*, of the Redreſs of *Grievances*, in the *Reign* of this *Mighty* and Triumphant *Prince* King *Edward* the Third; Partly to perfume the way a little before I come to * Anſwer the Rapines Objected againſt this great Prince. Partly becauſe his *Title* to the *Crown* of *England* was moſt unqueſtionable; and therefore no Man may pretend that *theſe* were the *Fawnings* or *Brocage* of an *Uſurper* (as * *Bacon* ſtiles the *popular Laws* of our *Richard* the Third). And laſtly, to ſhew that theſe *ſweet* and *Fatherly* ways of treating the Subject, are not at all inconſiſtent with the *Grandeur* and Felicities of an *Engliſh Monarchy*; Which puts me in mind, That the Wiſe Men of Old, did ſtile *Kings*, the *Fathers*, *Husbands*, and *Shepherds* of their *People*; Names intimating (as they conceived) the moſt paſſionate *Care*, *Love*, and *Commiſeration* that any *Mortal* Nature could poſſibly exert, or expreſs). Unto which I ſhall add that Divine *Saying* of * *Seneca* (*Tutor* to a *Roman Emperour*, and with which I conclude this Section.) [*Optime hoc Exemplum Principi conſtituo, ut Se talem eſſe Civibus, quales ſibi Deos velit.*] I do (ſaith he) propoſe it to my Prince, as the beſt Preſident for him to follow; That he would Treat his Subjects with the very ſame Dulceur and Tenderneſſes, with the which

(*) Poſtea *Sect.* 8*th.*

(*) His *Henry* 7. Fol. 3.

* *De Clementia* Lib. 1. Cap. 7.

which he desires the Immortal Gods should handle his own Royal Person.

SECT. VI.

The grand Objection of Necessity National *and* Danger *(supposing also our Fears to be at that time just) considered at large, and Answered.* That the Subjects Property is not alterable in this State, but by his own Consent, in Cases of National danger: *proved by sundry important Records in several of our Kings Reigns; From the time of the* Norman Conquest, *down to our own Times, and Otherwise. The unspeakable Care and Zeal of Antient Parliaments in securing the Common Liberties, and Property. Certain Venimous Doctrines contrariant to my Positions in this Section, and lately Publish'd, Considered, and Refuted.*

I Am now at length arrived to the grand *Objection* of this Case, the validity of which I am necessitated (though with *Reluctancy* in my self) to consider, because if this *Objection* prove impregnable, the Counsel of stopping the *Exchequer*, may seem to be built upon a good, or at leastwise an excusable Foundation, and so in all that I have hitherto said, I shall seem to have *trifled* with, and eluded my *Reader*. And herein (because I pretend not to any *Arcana's* of *State*) I shall handle this point by way of *Admittance*,

mittance, and ſhall ſuppoſe that the *Fears* and *Jealouſies* which at the time of ſhutting the *Exebequer*, did poſſeſs this *State*, were juſt, and ſuch as might well fall upon conſtant and deliberating *Minds*. The Objection then will run thus.

Object. Object. *That our Neighbour Princes and States were making vaſt preparations for War, both by Sea and Land; that the Heavens about us were Black, and Cloudy, and where the Storm might fall no man could Divine.* [*That* Neceſſitas eſt Lex temporis, Quæ non habet Legem]. *That Neceſſity and Self-preſervation ſuperintend all Laws. That* Salus Populi, *or Safety of the People*, is to be preferred before any other Conſideration whatſoever. *That it is more eligible to lop off one Member from the Body Politique, or at leaſtwiſe to let an Arm, or perhaps a finger thereof Bloud, than that the whole ſhould be endangered.* That the Subjects Money, ſtop'd in the Exchequer, was taken to Arm and Equip Fleets, for the defence of the Realm, in a great and National Danger.

Sol. *Sol.* The *Objection* I muſt confeſs is Important and Weighty, and will deſerve a ſubſtantial *Anſwer*. In order thereunto, I muſt in the firſt place mind my *Reader*, that I have in the former Sections, (as I ſuppoſe) by *Irrefragable* Argument proved the **Property of the Subject in this Caſe violated.** I will then add, that it is a Fundamental *Law* of this Realm, **That the Subjects property is not violable, no not in Caſes of National Danger, or even then to be Altered without his own free and voluntary Conſent, and that either, Firſt by the conſent of his own Individual Perſon; or Secondly, by that of his Repreſentatives in Parliament, to whom he hath delegated his Conſent.** To prove this,

I could produce innumerable *Records* of *Parliament*, and other *Courts*, but (for brevities ſake) ſhall content my ſelf with ſome few; doing herein like one that chooſeth a few full *Ears* of *Wheat* out of a ſelect *Sheaf*, who muſt neceſſarily leave behinde him as good as he takes. Let us then a Gods Name (as the * *Scriptures* direct) *enquire of the former Ages, for we are but of Yeſterday*; And let's conſider what our *Forefathers* have done in Caſes of *Common Peril*. Without doubt (whatſoever ſome may now think of them) they were no vain or futile Perſons; and they acted alſo under *Princes* that were wanting neither in *Courage*, *Prudence*, or *ſubtile Councels*; and beſides, that were Jealous and tender enough of their *Prerogatives*.

* Job 8. ver. 8, 9.

To ſay nothing then of more ancient Time, I ſhall begin my Evidence and Obſervations from the time of the **Norman-Conqueſt.**

William the *Firſt* (commonly ſtiled the *Conquerour*) had for ſome time revolved in his Great Minde the Acqueſt of this *Iſland*, partly out of his innate deſire of *Dominion* and *Glory*, but chiefly that he might poſſeſs himſelf of a *Country* ennobled with all the Dowries of Nature, to which likewiſe he had a Title by the Donation of his Kinſman King *Edward* the Confeſſor. This Deſigne he Compleated afterwards at the fatal Battle of *Haſtings*, as all our Chroniclers relate at large. It's true indeed, he ſubdued the people; but the *good Old Laws of* England *vanquiſht*, *and* (if I may ſo ſay) *gave Law to the Conquerour*, to which (after ſome Struglings and Conflicts with the people) he was fain to yield and ſubmit himſelf. To this purpoſe writes *Matthew* * *Paris* (an Hiſtorian of great Credit, and *Chronologer* to King *Hen.* the 3) *Poſt multas diſceptationes*, &c. *After many Diſputes*, (ſaith he) *in the preſence of* Lanfrank Arch-Biſhop of

William the Conqueror.

* *In Vita* Fretherici *Abbatis, fol.* 48. N. 30.

Canterbury, *King* William *at length, for quieting the People, Swore upon all the precious Reliques in the Church of St.* Alban, *laying his Hands upon the Holy Evangeliſts,* Fretherick *then Abbot Miniſtring the Oath to him* [Quod inviolabiliter obſervaret bonas & approbatas antiquas Leges Regni, quas ſancti & pii *Angliæ* Reges ejus Anteceſſores, & maximè Rex *Edwardus* Statuit.] *That he would inviolably obſerve the good and approved Old Laws of the Kingdom, which had been eſtabliſh'd by the Devout and Pious Kings of* England *his Anceſtors, and chiefly thoſe of King* Edward *the Confeſſor*; among which the Laws of *Property* were none of the leaſt.

* *Ingulph.* Hiſt. *p.* 519. *b. De Legibus* Will. Conq. Seldeni *Jan. Ang.* Lib. 2. *pag.* 123.

And * *Ingulphus* (the Learned and famous *Abbot* of *Croyland*, and ſometime *Secretary* to the *Conquerour*) ſaith thus. Attuli mecum Londoniis in Monaſterium (*Croylandiæ*) Leges æquiſſimi Regis *Edwardi*, &c. *I brought with me from* London (ſaith he) *unto the Abby* (of Croyland) *the Laws of King* Edward *the juſt in the ſame Language wherein they were made; which my Renowned Lord King* William *having ratified, and made Authentique, did by Proclamation throughout the whole Realm of* England, *command under grievous penalties to be inviolably obſerved, and ſo recommended the ſame to his Judges.* I think no man will ſay, this Prince was deficient either in *Courage* or *ſubtile Reaches*: Let's ſee then how the **Law of Property** ſtood in his Time in Caſes of *National Danger*. To prove this, I ſhall reſort but to one *Law*, Enacted by this very King himſelf, and * Enrolled in (no leſs an *Archive* than) the *Red Book* in the *Exchequer*. The words are as follow-eth.

* *See alſo* Lambard's *Archaion, pag.* 125. *a.* Leges *Guliel.* Regis.

Volumus etiam & firmiter precipimus, & concedimus, Quod omnes liberi homines totius Monarchiæ Regni noſtri prædicti, habeant & teneant Terras ſuas

&

& Poſſeſſiones ſuas bene & in Pace, liberas ab omni Exactione injuſta, & ab omni Tallagio, *Ita quod* Nihil *ab eis exigatur, vel capiatur, niſi* Servitium *ſuum* liberum *quod de jure nobis facere debent, & facere tenentur, & prout Statutum eſt eis, & illis à Nobis datum & conceſſum Jure Hereditario imperpetuum*, per Commune Concilium Regni noſtri.

Theſe words are plain and full, That all men ſhall be free from all *Taxes*; And the words *& ab omni Tallagio*, &c. are ſo general, that they extend to all *Impoſitions* whatſoever, as well thoſe for **Defence of the Kingdom**, as others: A ſo the words are *Negative*, That **Nothing** elſe ſhall be demanded, *&c.* And for the Exception here of *Servitium Liberum* or **Free Service**, ſome few Lines after, it is clearly explain'd to be meant only of that Service [*Quod Nobis de Feodis debent & Tenementis ſuis de Jure facere*] ſaith this Law, *Which they ought of Right to do for their Lands and Tenements*, which was by their Tenures in **Knights Service**, Thoſe being the only Proviſions the *Conqueror* made for **Defence of the Realm in time of Danger**, which yet were (as this Law ſaith) eſtabliſh'd alſo by the *Common Council* of the whole Realm.

His great Grandſon King *Hen. 2d.* was ſo far from the pretenſions of violating **Property** in *National Dangers*, that (if we may believe our own * Hiſtorians) he never ſo much as demanded *Subſidy*, or *Ayd* upon any Occaſion whatſoever, during his whole Reign: And the People of that Age knew not what the meaning of a *Tax* was. And yet let me tell you *Reader*, the ſaid King Govern'd this Land Thirty four Years and upwards; was exerciſed with reſtleſs *Hoſtilities* either from *Wales*, *Scotland*, *France*, *Ireland*, or his own Rebellious *Sons*. And notwithſtanding, after all this, his *Treaſure*

Henry 2d.

* Hayward's H. 4. Part 1. pag. 56. And others.

ſure upon his Death was found to be *Nine hundred thouſand pounds*, beſides his *Jewels* and *Plate* (no ſmall ſum in that Age). And our Chronicles do with one Voice Proclaim him the greateſt *Chriſtian Prince* of the whole *World* in that Time; For he had United in his own Perſon, the Kingdom of **England**, Dominion of *Ireland*, and the three Mighty Dutchies of *Normandy*, *Aquitain*, and *Anjou*.

King John. That the Law of **Property** continued the ſame in the time of his Son King *John*, I ſhall prove (omitting others I have ſeen) from this following ſhort *Record*, wherein the King doth *earneſtly pray* and *intreat* (for ſuch is the import of the Words * *Rogamus attentius*) the Clergy of the Province of *Cant.* that they (after the Example of the Prelacy and great Men of the Kingdom) would ſupply him with ſuch *Ayds* towards the *Defence of his Kingdom*, that he might have reaſon to give them *Thanks* therefore. The Record followeth.

* 1 Theſ. 4. 1. *Rogamus Fratres*, &c. We *Beſeech* you Brethren, *&c.*

* Pat. 8. Johan. Ks. M. 1. * **Rex**, &c. *Archidiacono, Officiali, & toti Clero Archiepiſcopatus* Cantuar. *ſalutem. Notum ſatis quod Archiepiſcopi, Epiſcopi, Abbates, Priores, & Magnates Regni noſtri* Auxilium *Nobis fecerunt, ad* Defenſionem Regni noſtri, *& recuperationem Terrarum noſtrarum. Verum quia de Vobis confidimus quod Nos & honorem noſtrum diligitis, &* Defenſionem Regni noſtri, *& recuperationem Terrarum noſtrarum affectatis; Vos* **Rogamus attentius**, *quatenus tale Auxilium Nobis, exemplo accepto, ex parte veſtra faciatis, ut inde vobis* **Gratias dare** *debeamus*, &c. *Teſte meipſo apud* Eborum, 26 *die* Maii.

I ſhall only obſerve here, that it is no uſual complement with Princes to *earneſtly pray* and *intreat* that from the poor Subject, which they might lawfully take at their *Pleaſure*, without his *Conſent*. But if any man ſhall ſay, that perhaps this was done by King *John* in the time of his *Impuiſſance* and *Infortunities*,

nities; I must then Reply, that the *Objector* doth not observe, that I vouch the said *Record* in point of time to be in *Octavo* of the said King; at what time, all our Chroniclers affirm, the same King Reign'd in *Grandeur* and *Glory*: and that his surrender of the *Crown* of *England* to the *Pope*, and his unhappy Contests with his *Barons*, hapned not for several years afterward.

That this **Law** continued Inviolate, and without Alteration in the Reign of his Son and Successor King *Henry* the 3*d*, I shall make plain from Two Important Records. Henry 3d.

The *First* in 19 of this King, in which he doth recognise, that his *Prelacy*, *Baronage* and *Tenants* by *Knights service*, had of their **own Free Wills and without Custome** granted to him an ample *Supply* towards the *Expedition* of his *great Affairs*, in these words following.

* **Rex** *Vic.* Sussex *salutem. Sciatis quod Archiepiscopi, Episcopi, Abbates, Priores, Comites, Barones, & Omnes alii de Regno nostro Angliæ qui de Nobis tenent in Capite,* **Spontanea Voluntate sua, & sine Consuetudine** *concesserunt Nobis* efficax Auxilium, ad magna Negotia nostra expedienda, *&c.* * *Clauſ.* 19. H. 3. M. 8. *Dorſe.*

The *Second* is, a * *Record* of 48 of the same King; which coming up so full to my purpose, I must crave leave to recite at large. * *Rot. Pa.* 48 H. 3. *Memb.* 2.

Rex *omnibus*, &c. *cum Venerabilis Pater* * G. Eborum *Archiepiscopus, & alii Prelati, Magnates, Milites, libere Tenentes, ac Omnes alii Tenentes, ac Omnes alii de Regno nostro, Nobis nuper* **in Articulo Necessitatis, ad Defensionem ejusdem Regni contra hostilem adventum Alienigenarum Servitium fecerint & Subsidium ultra quam temporibus retroactis** *in aliis Summonicionibus Exercitus nostri facere consueverint,* * Godfry de Kyaton.

verint, Nos ob Fidelitatem & promptitudinem dicti Archiepiſcopi, & Aliorum indempnitate ſua proſpicere Volentes, Concedimus eidem Archiep. Prælatis, ac omnibus Aliis predictis pro Nobis & Hæredibus noſtris, **Quod id, quod Nobis in Articulo Neceſsitatis predictæ fecerint, ſibi non cedat in prejudicium, nec in poſterum trahatur in Conſuetudinem, vel conſequentiam, nec ad hujuſmodi Servitium vel Subſidium faciendi compellantur.** *Ita tamen quod Servitium ſuum quod Nobis debent, faciant temporibus futuris, cum ſuper hoc à Nobis fuerint requiſiti. In cujus,* &c. T. R. *apud* Weſtm. 18 *Die* Octob. *&c.*

It appears by this *Record*, that the Kingdom was then in the very *Article* or Inſtant of *Neceſſity*, that it laboured under a Forreign *Invaſion*, and that it ſtood upon the vertical Point of *Ruine* and *Deſtruction*. Now was the *Criſis* or *Punctilio* of Time ſurely, one would have thought, (if ever) for a *Bold Adviſor* to have reſorted to the King and told him, Sir, *the Occaſion is preſſing, and will admit of no Delay; now you are Abſolv'd from all Laws, and become abſolute Maſter, and Grand-Seignior of all your Subjects Poſſeſſions. The Enemy may yet (we doubt not) be Repell'd. Let not then ſo fair an Opportunity of enriching your Self and Favourites ſlip out of your hands,* &c. But it ſhould ſeem there was **Then** no Perſon ſo hardy to inſtil this *Venome* into the Royal Mind; but the King betakes himſelf, we ſee, to the Legal and juſtifiable courſes of Defending the Kingdom, *Viz.* By the *Voluntary Supplies and Ayds of his loving People.* And becauſe in this Caſe the ſaid Supplies were more generous and bountiful than at ſome other times; the King grants by the aforeſaid *Charter*, that their preſent kindneſſes to him, *ſhall not be drawn into Cuſtome and Preſident.* With an Exception only of the Services which they

they owed to him by the Tenures of their *Lands*.

I am now arrived to his Son and Succeſſor, the Glorious King *Edward the Firſt*, that terrible *Thunderbolt of War*; and (if we may rely upon the Judgment of a famous * Chief Juſtice that ſerved him, and knew his Perſon) *the wiſeſt Prince that ever was in the World*. Upon peruſal of the Records of that Kings Reign I find, That when upon *Wars* or *Invaſions* hapning in the Intervals of *Parliaments*, *Ayds* or *Contributions* were granted, they were always done of the *meer Courteſie* and *Free* * *Grace of the Subject*, who evermore indented with that King, That he ſhould by his *Letters Patents* (and ſo he conſtantly did) make Recognitions thereof accordingly. Preſidents of this nature, in this Kings time, I have ſeen not a few; ſome of them modified with theſe or the like *Proviſions*, *viz.* That the ſaid *Ayds* were given *Ex mera* (a) *Curialitate* [Curteſie] or (b) *Gratanter & liberaliter*, or *Sponte & Gratioſè*, *hac Vice tantum*, &c. Others in the Negative, (c) *Non Ratione alicujus Servicii nobis debiti*, *Et quod per hoc Nihil novi Juris*, *Nobis vel Hæredibus noſtris accreſcat*. To give my Reader ſome farther Taſte hereof, I ſhall (among many others that I have ſeen) produce but this one ſhort *Record*, containing that ſaid Kings Letter of *Thanks* and *Indempnity* to the Commons of *Flintſhire*, for their *Ayds* given towards his *Scotch Wars*.

(d) *Rex Communitati Comitatus de Flynt, Salutem. De illa* Subventione Pecuniæ *quam Nobis ex* **Vera Curialitate** *veſtra in* Subſidium Guerræ Noſtræ Scotiæ jam feciſtis, *Vobis referimus* **Multas Gratias**, *Et ne Subventio illa Vobis cedat aliqualiter in Prejudicium in futurum*, *Vobis ſuper hoc noſtras Patentes Literas deſtinamus*. *Teſte Rege apud la* Roſe 21 *Die* Septembris. Letters of the very ſame Form and Date were then directed alſo to the whole Prelacy and Commonalty of *Wales*. Now

Edward I.

* Sr. *William Herle* Chief Juſtice de *C. B.* See *Co. 2. Inſt.* fol. 536.

* What's the Engliſh of *Gratioſe*, *Sponte*, *Liberaliter*?

(a) *Pat.* 28. Ed. 1. M. 6. *Pro Epiſcopis Abbatibus, & tota Communitate* North-walliæ, & Weſtwalliæ.

(b) Ibid. *pro Communitatibus terrarum de* Bowelt, Montis Gomeri, & Powis Griffyn.

(c) *Pat.* 5. Ed. 1. M. 22. *De Communitate Com.* Sallop & Hereford.

(d) *Pat.* 28. Ed. 1. M. 6. *Littera de regratiando Communitati de* Flynt. *de Subventione Regi per eas facta.*

Now it is not perhaps unreaſonable to believe, That if in theſe Caſes of *Neceſſity*, Moneys in that Age, mought have been legally leavied without **Conſent** of the People, that the *Great Edward the Firſt* would not ſo eaſily have been drawn to make the aforeſaid ſolemn *Diſclaimers* under the *Great Seal of* England. And I cannot then at all excuſe his *Councellors*, that would ſuffer him to declare thus to all Futurity, that the ſaid Supplies were grounded upon the *mere Curiality*, and *Benevolence* of his Vaſſals. And (by the way) I would fain have any man ſhew me ſome Authentique *Hiſtory* or *Record* of this Kingdom, wherein the like *Confeſſions* of the King's Right in this Caſe, to charge the People without **Conſent**, have been made by the Subjects, even when their *Liberties* were at the loweſt Ebb.

And (which yet puts this Matter beyond all poſſible Exception) theſe *Acknowledgements* which I have recited, were made by this King to the *Welch*, whom (though a magnanimous and Warlike People) about 16 years before this very Prince had Conquered with his own Omnipotent Sword, and that (as the Statute of * *Ruthland* ſaith) had ſubmitted themſelves to his Royal pleaſure *de* † *Alto & Baſſo*. And if the *Welch*, who had been ſo lately by him * Endowed with the Engliſh Immunities, were not thus impeachable in their Eſtates without their free **Conſents**, I ſuppoſe no Man will imagine that the *Engliſh* themſelves could be in worſe Condition, to whom *that* King and his Royal *Progenitors*, long before, had granted, and ſo often confirm'd their **Magna Charta**, and Fortified the *Common Proprieties* with the Great Statute *De Tallagio non concedendo*, and many other *Laws* of the ſame Nature.

The next Record that I ſhall inſiſt upon, will be that

* *In Veteri* **Magna Charta.**

† *Of High and Low, as Villains were formerly to their Lords.*

* Davis *Rep.* 42. *a.*

that memorable one of 14 *Ed.* 2, in a Writ of Error upon Judgement given in *Durham*, in Treſpaſs, by *Heyburn* againſt *Keylow*, for entring his Houſe, breaking his Cheſt, and taking away 70 *l.* in Money, upon a ſpecial *Verdict*: The Caſe was this. Edward 2.

* The Scots had entred the Biſhoprick with a formidable Army, making great Burnings and Spoil: the Commonalty of *Durham* (whereof the Plaintiff was one) apprehenſive of the Common Danger, conſulted together, and at length agreed to ſend their Agents to compound with the Scots for Money to depart, and were all Sworn (the Plaintiff being one) to perform ſuch Compoſition, and alſo what Ordinance ſhould be made in that behalf: thereupon they compounded with the *Scots* for 1600 Marks; but becauſe this Money was to be paid without the leaſt delay, they all conſented that *Keylow* the Defendant, and others, ſhould go into every mans Houſe, to ſearch for ready Money to make up the ſaid Sum, and that it ſhould be repaid by the ſame Commonalty: and thereupon the Defendant entred the Plantiff's Houſe, and took the ſaid 70 *l.* which was paid toward that Fine. The Jury were demanded whether the Plaintiff was preſent, and **conſented** to the taking of the Money? they ſaid **No.** Whereupon the Plaintiff had Judgement to recover the 70 *l.* Upon this Judgement the Defendant brings his Writ of Error in the Kings Bench, and aſſignes error in point of Law; and there the Judgement was revers'd, becauſe *Heyburn* (whoſe Money it was) had **agreed** to this Ordinance, and was Sworn to perform it, and *Keylow* had done nothing but by the expreſs **Conſent** of *Heyburn*, and therefore was no *Treſpaſſor*; and that *Heyburn* had no other remedy for his Money, but againſt the Commonalty of *Durham*. By which

* *Mich.* 14 *Ed.* B. R. Rot. 60.

which it appeareth, that if the owner of the Money had not particularly **Conſented**, *ſuch Ordinance could not have bound him; and yet this was in a Caſe of* **imminent danger**, *and for* **publick Defence.**

Edward 3.

* Rot. *Parl.* 21 *Ed.* 3. Num. 16. & 17. Et ibid. Num. 44.

The * *Parliament* of 21 *Ed.* 3. (whoſe Reign was a continual Warfare, and of whoſe Proweſs and Wiſdom I have ſaid enough in the end of my Fifth Section) exhibit a *Petition that no Levies or Impoſitions ſhould be made upon the People, but by their* **Conſent** *in full Parliament.* The King's Anſwer is, *That if any ſuch Impoſitions were laid, they were done in times of great and palpable* Neceſſity, *and alſo by the* Aſſent *of the Prelates, Barons, great Men, and* **Some of the Commons** *then preſent: yet he willeth that ſuch Impoſitions* **Not duly Made,** *be not drawn into Example, but clearly aboliſhed.* And do we think he would not have given the ſame Anſwer if theſe Levies had been made by Himſelf alone? I think no man will doubt thereof.

* Rot. *Parl.* 50 *Ed.* 3. Num. 24.

In the * Parliament of 50 of the ſame King, the Lord *Latimer* (Lord-Chamberlain and Privy Councellor) was (amongſt other Crimes) impeach'd, *For that he without* **Conſent** *in Parliament had Levied Impoſitions upon the Merchants.* He excuſed himſelf upon the *King*'s expreſs *Command*, upon the *Exigence* of his Maſters *Wars*, and (which was more) upon the *good liking* of the *Merchants*; and yet, notwithſtanding all theſe fair and ſpecious *Defences*, Let's ſee what Judgement was given upon him. It was (ſaith the * Roll)

* Rot. *Parl.* 50 *Ed.* 3. Num. 28.

no leſs than *Impriſonment*, *Fine*, and *Ranſome*, at the King's pleaſure, *loſs of all his Offices, and more eſpecially to be expell'd the Privy-Council.* And his procuring the ſaid Impoſitions is expreſs'd there in the Entry of the Jugement, to be one principal cauſe

of

f the ſaid Cenſure. Nay, ſo great was the *Zeal* nd *Indignation* of the Subject againſt theſe *Extra-arliamentary Charges*, that in the end of this laſt ecited Parliament they Petitioned, *That Offences f this Nature might be made Capital, and that the rocurers of ſuch Impoſitions might have Judgement f Life, and Member, and Forfeiture of Eſtate.* The ecord is very ſhort, and therefore I will Tranſlate t out of the Old French, *verbatim.*

* *ITEM*, The ſaid Commons pray, hat it may be ordained by Statute in this reſent Parliament; That all thoſe hich hereafter ſhall lay or procure for heir ſingular profit, New Impoſitions, y their own Authority (Accrochcants) in-roaching, or Uſurping to themſelves Royal Power, over that which is eſta-liſh'd by Parliament, without Aſſent of Parliament, that they may receive Judg-ment of Life, and Member, and Forfei-ture. *To this briſk Petition the King however gave his ſoft and milde Anſwer:* Courge la Common ey come eſtoit al avant uſee. Let the Com-mon Law run in this Caſe as it hath been cuſtomed.

* Rot. *Parl.* 50 *Ed.* 3. Num. 133. *or* 191. Cottons *Abridgement of the Records* Fol. 138. in fine.

The next, is a Record of the * Parliament of *Rich.* 2. Some little time before this Seſſion, he *French* had *actually* invaded this Realm; they ad burnt *Portſmouth*, *Dartmouth*, *Plymouth*, *Rye*, nd *Haſtings*; they had poſſeſs'd themſelves of the le of *Wight*, Beſieged *Winchelſey*, and at length ntring the *Thames* with their Victorious Fleet, me up to *Graveſend*, and burnt moſt part of that own. And (which was yet worſe) in the North he *Scots* had burnt *Roxborough*, and were ready to ver-run all the North of *England*. The Realm ing thus beſet both by Sea and Land with the united

Richard 2. * Rot. *Parl.* 2 Ri. 2. *pars prima*, Num. 3, 4, 5.

united *Puiſſance* of two mighty *Kingdoms*, and like a Candle burning at both ends, the *Publick Treaſure* alſo Exhauſt; a great *Council* was forthwith call'd, of the *Prelacy*, *Baronage*, and other *Great Men*, and *Sages* (or Judges) of the Nation, to conſult about theſe *Difficulties*: they came at length to a final Reſolution, the which *Scroop* (then Lord-Chancellor) delivered to all the Lords in the enſuing Parliament, which (as the Roll above-quoted ſaith) was thus. *That ſince the laſt Parliament, the ſaid Council met, and conſidering the great danger the Kingdom was in, and how Money might be raiſed for the Common Defence, which could not wait the delay of a Parliament, and how the King's Coffers had not ſufficient in them; They all concluded,* **That Money could not be had for ſuch defence without laying a Charge upon the Commonalty,** *Quel Charge* (ſaith the Roll) *ne poit eſtre fait ſans* **Parliament. Which Charge could not be impoſed or granted** *WITHOUT A PARLIAMENT.* And the Lords thereupon, together with the Citizens of *London*, &c. and other perſons, ſupplied the preſent Neceſſity with their own Money, and adviſed a *Parliament* for farther ſupply, and Repayment of themſelves; which was accordingly done. Neither is it to be neglected, that in the * *Commiſſion of Array*, which in that *Exigence* was iſſued forth, the King doth expreſly command the Commiſſioners to publiſh and declare to his People, *That it is not his Intent, nor the Intent of his Council, that the ſaid Ordinance and Accord of Loane, which was then made onely for Neceſſity, and the Defence of the whole Realm, ſhould in anywiſe turn to their prejudice by way of Example, or Preſident in future Time.*

* Rot. *Par.* 2 Ri. 2. *p.* 1. *Memb.* 9. *Dorſo.*

* About three Years after, this State ſuſtain'd a *Convulſion* hardly to be parallel'd in Story. Two hundred

* Walſingh. *and other our Chroniclers.*

hundred thouſand of the Dregs of the People had ſettled together, under the Conduct of a certain profligate Villain, which our Chronicles ſtile **Wat Tyler**. Their Deſignes were Barbarous, and truculent, nothing leſs then to *Violate the Sacred Perſon of the King, to take up by the Roots the Prelacy, Baronage, and Gentry of* England; *and in fine, to over-whelm all in one Common Ruine:* and purſuant thereto, they had already chopt off the Heads of the (a) *Archbiſhop of Cant.* (then Lord Chancellor); of the Lord (b) *Treaſurer*, Lord (c) *Chief Juſtice* of *England*, and of ſeveral others of the *Nobles* and *Gentlemen*, and had committed other unſpeakable *Ravages* likewiſe in all places. The King, to quench, and allay this *Wildfire* which had now grazed almoſt throughout the whole Realm (amongſt other things) by his *Charters* infranchiſeth all the Bondmen of *England*. (Here was now an altering of the Subjects *Property* without *Conſent* in a great *Exigence*; it will be worth while then to obſerve what was the Iſſue thereof.) *In the next* Parliament, *Scroope* Lord *Chancellour*, *demands in the preſence of the whole Kingdom, whether the ſaid Charters ſhould be Repeal'd, or not? Unto whom aſwel all the Prelates, and Barons; as the Knights, Citizens and Burgeſſes anſwered,* [a une voice] *with one voice,* (ſaith the (h) Record), *that they would have them repeal'd, not ſo much becauſe they were founded upon Coberſion, and Dureſs, as becauſe* (ſay they) [Tiel Infranchiſement ne poit eſtre, ſans noſtre **Conſent**, que avoumus le greinder Intereſt]. *Such Infranchiſement may not be made, without our* **Conſent**, *who have the greater Intereſt therein.*

(a) Simon de Sudbury.
(b) *Sir* Robert Hales *Prior of St.* John's, *&c.*
* *Sr.* John Cavendiſh.

(h) *Rot. Parl.* 5 Ri. 2. *Num* 8. & 13.

Two Years after, this Realm was again threatned with a dreadful *French Invaſion*; the King thereupon (by the Advice of his *Councel*, the ſame for the moſt part with that of his Invincible Grandfather King *Edward*

Edward the 3*d*,) dispatches forth * *Writs* to his loving Subjects, for supplyes of Money to defend the Kingdom: In which it is recited, *That the Rancor and Malice of the Invaders was so mortal, that they design'd not only his Royal Person* [Sed totam Linguam Anglicanam subvertere & destruere; *saith the Record,*] *But also the whole* English Tongue *to subvert and destroy.* Then follows this material Clause [Verum quia ad horum Onerum & sumptuum supportationem absq; Juvamine Fidelium nostrorum non sufficimus, **Sicut scitis,** Ideo vos rogamus quod Subsidium in hoc Casu competens & necessarium Nobis concedatis, *&c.*] *But because we are not able our selves to sustain the said Charges and Burthens without the Ayd and Assistance of our faithful Subjects,* **As you know**; *therefore we desire you to grant us in this Case a competent and necessary supply,* &c. **Sicut scitis, As you know.** It should seem then in that *Age* this Point of *Law* was so clear, that it fell under the knowledge of the whole Kingdom, to which this *Prince* here (as we see) doth appeal therein. For it's plain, if the Law of that Time had been, that in such Danger of the Nation, the King might have committed what *Ravages* and *Spoil* he had pleased upon the Subjects, he had had then but little Reason to say here, *He could not Defend the Kingdom without their kind Supplies of Money.*

* Clauſ. 7 Ri. 2. *Memb.* 33. *De Clero convocando.*

I think no man will pretend that our *Late Danger* (to say no more) was greater than *These*; and yet because there was no other course in those times thought lawful for the raising Treasure upon the Subjects Goods, or alteration of their Property, than by their *own* **Assent** either in, or out of *Parliament*, only that course was then thought fittest to be practised, which was such as ought to be obeyed.

Henry 4th. (*i*) Rot. *Parl.* 13 *H.* 4. Num. 10. Et Rot. *Parl.* 11 *H.* 4. Num. 45.

The (*i*) Parliament of the 13 of King *Henry* the 4*th.*

4th, granted unto him for one Year a Subſidy of *Wools*, *Tonnage* and *Poundage*, and other things there mentioned, for the ſafeguard of the Marches of *Calice*, &c. And for the *Defence of the Realm, and the Seas*. But it was (ſaith that Roll) with this expreſs Proviſo, *viz. Provided always that this preſent Grant in time to come ſhall not be taken into Example to charge the Lords or Commons of this Realm, with any manner of Subſidy for the ſafeguard of* Calice, &c. **Nor for the Defence of the Realm or the Seas**, *unleſs it be by the* **expreſs good wills of the Lords and Commons of this Realm** *by a new Graunt to be made, and that* (en pleine *Parliament*) **in full Parliament**. Nay farther, when the *Parliament* of the 5th of this King (for repelling of the *Welch*, *Iriſh*, *Scotch* and *French* Hoſtilities) had granted [*Taxam inſolitam & valde gravem*, as (*k*) *Walſingham* ſtiles it] *an unuſual and heavy Tax, it was given* (ſaith he) [*Ea conditione, ut nec ſervarentur ejus Evidentiæ in Theſauraria Regia, aut Scaccario, ſed Scripturæ & Recordationes ejuſdem, protinus poſt datum Compotum cremarentur*]. Upon condition that no Evidence or footſtep thereof ſhould appear to future Ages; and that upon finiſhing the Accounts the very Records of that Grant ſhould be forthwith utterly conſumed with Fire.

(*k*) *In Vita* Henrici 4. *fol.* 369.

So great we ſee were the *Cautions* of the Subject in that Age, even in their very *Parliamentary Grants*, where the Ayds were Extraordinary, though in Caſes too of *National Danger*.

The Statute of 1 *Ri.* 3. *cap.* 2. recites, *That the Commons of this Realm by new and unlawful Inventions had been put to great Thraldome and Importable Charges; and eſpecially, by a new Impoſition call'd a Benevolence, whereby they had paid great Sums of Money againſt their wills and freedoms; by reaſon* Richard 3.

of

of which, divers of them were compell'd of Neceſſity to break up their Houſholds, and to live in great penury and wretchedneſs, their Debts unpaid, and their Children unprefer'd, &c. *almoſt to their final undoings;* (*Miſchiefs*, if I am not miſtaken, applicable enough to our *Caſe of the Bankers*, &c.) *And then Enacts that the Subjects from henceforth ſhall in nowiſe be charged by any ſuch Exaction or Impoſition, called a* Benevolence, **Nor by ſuchlike Charge**, &c. The words are general, and include all Charges, as well thoſe as are for the *Defence of the Kingdom*, as ſuch which are for the King: This Statute ſpeaking generally of *Exactions*, *Charges*, and *Benevolences*, which Men pay againſt their Wills. But if it be alledged that this Act was aſſented to by an *Uſurper*, on purpoſe to ingratiate himſelf with the People; then I anſwer, that this Law was never yet Repeal'd. And beſides, in 3 *Caroli* it was conſolidated, and embodied into the *Petition of Right*.

Henry 8. * *Old Book of Statutes* 31 Hen. 8. *cap.* 8.

The next * *Record*, is the Statute of 31 *Hen.* 8. *cap.* 8. Some years before, this King had diſſolved the Leſſer, and in the year of this Statute the Greater *Monaſteries*; which being a new *Precedent*, made no ſmall noiſe, and the Event thereof was apprehended with terrour and * *Amazement* all over the *Chriſtian World*; this adminiſtred ſecret ſeeds of *Diſcontent* to many of the People, which after broke out into open *Rebellions* (as our Chronicles declare) in ſeveral parts of this Kingdom. This King (who was too Big to *Intreat*, and too Mettleſome to *Loſe* his *Right*) that he might provide againſt the like ſuddain Eruptions of this Torrent, which would not ſtay for *Parliaments*, procures with ſome difficulty a Statute to be made, *That the King for the time being, with the advice of his Council, two Biſhops, two Chief-Juſtices, and divers others, might by his* Proclamation, *make Ordinances for puniſhing Offences,*

* Camb. *Brit.* pag. 163.

Offences, and Impoſing Penalties, which ſhould have the force of a Law, but with this Proviſo, [That thereby no man's Life, or Property, Land, or Goods, ſhould be touch'd, or impeach'd, Nor the Common, or Statute-Laws of this Realm Infringed.] So then, though the *Royal Power* was thus corroborated by this Statute, yet the *Parliament took Care, that no Mans* Life, *or* Property, *ſhould be Raviſh'd from him.* However (*notwithſtanding* the ſaid Reſtriction) this Statute was thought inconvenient to the *Meum* and *Tuum* of the Subject, and thereupon Repealed ſoon after, in 1 *Ed.6.cap.12.*

This Kingdom never laboured under a juſter Fear than in the Year 88. when it was aſſailed by that invincible *Armada*, or Sea-Giant (as the Lord * *Bacon* calls it) and yet every mans *Right* was then preſerved inviolable. Nay, the Queen was ſo tender in that particular, that (as our * Hiſtorians ſay) *She gave expreſs Order, that not ſo much as an Ear of Corn ſhould be burnt, or other Goods of her Subjects devaſtated, until the Enemy had actually Landed, and was even upon the very point of Poſſeſſing them himſelf.* And therefore where * 8 *Edw.* 4. ſaith, That I may juſtifie to make Bulwarks and Trenches upon another man's Ground, without his Conſent; this muſt be in a *Time* of *impending Danger.* [*Et lou les Enemies viendront*] (ſaith the Book) *and where the Enemies are already arrived.* And (by the way) I ſhall make bold to obſerve, that (upon citing this very Caſe) all the * *Judges* of *England* in 4° *Jacobi* held, That as ſoon as the *Danger* was over, the ſaid Trenches and Bulwarks ought to be removed at the *Publick Charge*; that ſo the *Owner* (ſay they) might not be prejudiced in his *Inheritance.* So where the Caſe of * 13 *H.* 8. of pulling down the Suburbs of a City without the

Queen Elizabeth.

* *Her War with* Spain.

* Cambden *in Vita* Elizab. 1588.

*8 *Ed.*4.23.a.

* Coke's 2. Rep. *Fol.* 13.

* 13 *H.*16.b. per *Shelly.*

Conſent of the Owners, in time of War, is Law, it muſt be underſtood of an *Actual Invaſion* of the Enemy, when the Danger is in *Potentia proxima*, and the Fire ready to take. And this manifeſtly appears by the * Record of 11 *Ed.* 2. where the Mayor and Citizens of *Dublin* pull'd down the Suburbs of that City; but it was (ſaith the Record) *Super imminentem hoſtilem Irruptionem* Scottorum *Inimicorum infra* Hiberniam, *& pro Salvatione Civitatis prædictæ, & ne dictis Inimicis ad Civitatem prædictam facilior pateret Ingreſſus*, &c. And yet this Corporation neither, would not truſt to this point of Law, but for their better ſecurity procured the King's *Pardon*, which yet was cautiouſly enough drawn: For it was [*Pardonamus eis & cuilibet de communitate Civitatis prædictæ*, id quod ad nos pertinet, *de proſtratione prædicta*, &c.] *We Pardon* as much as in us lies, *&c.* as appears by *Pat. de Anno* 12 *Edw.* 2. *Memb.* 30. *Intus de pardonatione pro Majore & Civibus Dublin.*

* *Claus.* 11. Ed. 2. *Memb.* 19. *Dorſo Pro Majore & Civibus Dublin.*

And ſo of the * Caſe of *Graveſend*-Barge. If the *Ferry-man* may juſtifie to throw my Goods over-board to lighten the Veſſel, it muſt be upon an *Inſtant Tempeſt*, and *Inevitable Peril*; but if the *Ferry-man* ſhall ſay, I ſee a Cloud yonder, (my Maſters) it's like to be a great *Storm*, and thereupon ſhall throw them over, I doubt that is not at all juſtifiable in Law.

* *Mich.* 6 Jac. Cook's 12. Rep. 63.

K. James. That this *Right* of **Property** remained without Alteration in King *James* his Reign, I ſhall prove (among many others) from one remarkable *Inſtance* in 8° of that King, in Dr. *Cowel*'s Caſe a *Civilian*, the which I ſhall report in the words of * Sir *William Jones*, (an honeſt and Learned Judge of this Realm, and contemporary to the Action.) *Dr.* Cowel (ſaith he) *was Sentenced in the Parliament of* 7° Jacobi, *for that he in a Book of his* (calld the

* In his Argument of Ship-money.

the *Interpreter*) *under the Words* **King, Parliament, Prerogative, Subsidy,** &c. *had affirmed*, **That the King of** England **might make Laws, and Impose Taxes without Consent in Parliament**, *and thereupon he was justly Sentenc'd; and I gave my Voice* (saith he) *for it, being a Member of that Parliament.* And in 8° of the said King, the same *Book* was call'd in, and solemnly Burnt by * *Proclamation*, for these Reasons therein expresst. First, *because it contain'd matter derogatory to the true State, Fundamental Constitutions, and Priviledges of the Parliament of* England. *And* Secondly, *because the Author had therein spoken irreverently of the Common Law, It being a thing utterly unlawful for any Subject to speak or write against the Law under which he liveth.* **And which We are Sworn, and Resolve** (saith the King in the said Proclamation) **to maintain.**

* See the Proclamation, and *Rushw.* Hist. Collect. 4 *Caroli.*

I shall now draw nearer our own Times, and present you with no less than five Presidents in one and the self-same *Parliament*, (no other than that which attain'd the Name of *Parliamentum* * *Benedictum*, or Bless'd Parliament) I mean that of 3° *Caroli Primi.*

K. Charles the first.

* Cook's 3. Inst. 3.

First, The Judgement of the two Houses in that Parliament in Dr. *Manwaring*'s * Case, who was Sentenc'd by them principally, for Declaring in a Sermon (which he afterwards Printed) *That the King in cases of imminent Danger to the Kingdom, might without* **Parliament** *Levy Money upon the Subject.* There were other collateral Charges against him it's true, but this was the * Principal, and to this he chiefly applied his Defence, and would have excused this Assertion, by limiting it onely to Cases of *National Extremity*; but that would not serve his turn, he himself submitting, and the Sentence afterwards affirm'd by the King's *Proclamation*

* Rushw. *Hist. Collect.* 3. Caroli 1.

* *Journal of both Hou. es.*

for ſuppreſſing the Book. The *Judgment* given upon him was no leſs then *Impriſonment* during the *Pleaſure* of the Houſe, *Fine* of 1000 *l.* to the King, to make *Submiſſion* at the Bar of the Commons Houſe, to be *Suſpended* for three Years *ab Officio & Beneficio*; To be diſabled for ever from *Eccleſiaſtical Dignity*, *Secular Office*, or *Preaching* at *Court*. And *Laſtly*, the King to be moved, that this Venomous *Book* might be *Suppreſt* by *Proclamation*, and openly *Burn'd* in *London*, and both the *Univerſities*. And twenty to one it had gone worſe with *Mr. Doctor*, if he had not had ſome *Fautors* and *Patrons* at *Court*.

*Ruſhworth's Hiſt. Collect. 3 Caroli.

The *Second* is the Commiſſion for * *Loan*, to carry on the War for the *Palatinate*, in which was ſuggeſted the *Safety*, and very *Subſiſtance* of *King*, *People*, and *Religion* to be in *Inſtant Danger*; that his Majeſtie's *Coffers* were *Exhauſted*; that the Supply could not ſtay for a *Parliament*; that the King upon his Acceſſion to the Crown, found himſelf ingaged in this War, and that by *Advice in Parliament* (which I think may deſerve ſome remark) and only lending a little *Money* for prevention required. Now I would fain know, what Suggeſtions could have poſſibly been more Subſtantial or Perſwaſive. *But becauſe this Courſe was Compulſary, and without* **Conſent**, *theſe Commiſſions in the ſame Parliament were Reſolved to be Illegal*, and ſo agreed to be by his Majeſty, and ſo Declared a little after in the ſame *Parliament* in the (*t*) *Petition of Right*.

(*t*) Petition's Statutes 3. Car. cap. 1. Rushw. Hiſt. Collect. 3 Car.

The *Third* is the Commiſſion of (*u*) *Exciſe* Iſſued to Thirty three Lords, and others of the Privy Councel, *In which they are commanded to raiſe Moneys by* Impoſitions, *or otherwiſe, as in their Judgments they ſhall find to be moſt convenient.* The *Suggeſtions* here, were for the moſt part the ſame, and of as *Grand and Invincible Neceſſity*, as thoſe in the above

above mentioned Commiſſion of *Loane*; and yet (becauſe here was no **Conſent** of the People) *Adjudged by both Houſes contrary to Law*: and the Lords deſired his Majeſty that this Commiſſion of *Exciſe* might be Cancel'd: and ſhortly after it was Cancel'd by the King, and thereupon brought ſo Cancel'd into the Lord's Houſe, by the Lord Keeper, and by the *Lords* ſo ſent to the *Commons*.

The 4*th* is the * *Saving* offered to be added to the *Petition of Right* before the Paſſing thereof, in theſe words following. [*We humbly preſent this Petition to your Majeſty, not only with a Care of preſerving our own Liberties, but with a due Regard to leave entire that Soveraign Power wherewith your Majeſty is intruſted for the Protection, Safety and Happineſs of your People*]. * Ruſhw. *Hiſt. Collect.* 3. Caroli.

This *Saving* was well ventilated and ſifted by the *Commons*, and after mature Debate, *Reſolved that it ought to be reprobated*; and after ſundry Conferences had with the Lords about it, they agreed with them: The Reaſon of which Reprobation was, *Becauſe if it had been added, the Petition would have been plainly* Felo de ſe, *and deſtructive of it his ſelf; for it would have admitted, That the King by* **Soveraign Power** (*wherewith the Law had entruſted him for the Protection, Safety and Happineſs of his People*) *might impoſe any Ayd, Taxe, Tallage, or Charge upon the Subject without* **Conſent**, *although by his* **Ordinary Power** *he could not do it.* And ſo this *Saving* had left the Subject in worſe Condition than it found him.

The 5*th*, is the * **Petition of Right** it ſelf, in the Preamble whereof ſeveral Statutes are recited, before that time, made for preſervation of the Publick *Liberties* and *Property*; *By which* (ſaith the Petition) *the Subjects have inherited this Freedome, that they ſhould not be compelled to Contribute to any* * Printed in *Poulr.* 3 Caroli.

Taxe, Tallage, Ayd, or other like Charge **not set by common Consent in Parliament.** *And then the Lords and Commons pray (as their Rights and Liberties, and not as any new Priviledge);* **That no man hereafter be compel'd to make or yeild any Gift, Loane, Benevolence, Taxe, or such like Charge without Common Consent by Act of Parliament.** To which Petition the King gave this gracious Answer; *Soit Droit fait come est desire: Let Right be done as is desired.* By the which Royal Assent it became an Act of *Parliament.*

* Printed in *Poulton's* Statutes.

I shall now Cite the * Statute of 17 *Car.* 1. *cap.* 14. For the Reversal of the Judgment in the Case of the *Shipmoney. This Act recites, that divers Writs had Issued to charge the several Counties of this Realm, to provide Ships for his Majesties Service; Process went out of the* Exchequer *against* John Hampden *Esquire, to appear and shew cause why he should not be charged with a Sum of Money Assessed upon him, for that cause; he Demur'd, the Case was adjourn'd into the* Exchequer-Chamber, *and the greater part of the Judges agreed, that the said* John Hampden *should be charged, the main grounds being* (I recite the Act *Verbatim*); *That* **when the God and Safety of the Kingdom in general is concern'd, and the whole Kingdom in danger, the King might by Writ under the Great Seal of** England, **command all the Subjects of this his Kingdom at their Charge, to provide and furnish such number of Ships with Men, Victuals, and Munition, and for such time as the King should think fit, for Defence of the Kingdom from such Danger: And that by Law the King might compel the doing thereof in Case of Refusal**

See Judge *Jenkins* Works Printed for *J. Giles* 1648. *pag.* 40. 119. 120. where the Judge saith thus, *We of the Kings Party did, and do detest* Shipmoney. *And that Imposition was justly condemned by Parliament,* &c.

sal or refractorines, and that the King was sole Judge of the Danger, and when and how the same was to be prevented. According to which grounds and Reasons all the Judges of England had bin advised with by his Majestie's Command, who did subscribe an extra-judicial Opinion to that purpose; which Opinion, with their Names that subscribed it, was Enrolled *in several Courts at* Westminster, *and Judgement given against Mr.* Hampden *accordingly*. But the said Charge, Writs, Opinion of Judges, and Judgement, are all Enacted there to be against the Laws and Statutes of this Realm, the Right of Property, Liberty of the Subject, former Resolutions in Parliament, and the Petition of Right.

So that I am sure no man can read this Law, but must say, It is a most Expres and Invincible Judgement in the point, against the Violation or Invasion of Property in Case of National Danger, which is the point I have all along asserted in this *Section*. But if any person shall, for Reasons best known to himself, *Arraign* or *Impeach* this Act of *Parliament*, I shall say no more but this, *If it be Law, why may I not vouch it? If it be not, why is it not repeal'd?* Why doth it still cumber our *Statute*-Books, and delude the unwary Readers?

Now for a *Corollary* to this Section, and in farther Evidence of the *Ancient* Care of Publick *Property*, I might here add, That where * *Subsidies* of a *New* or extraordinary *Nature*, have been heretofore agitated in *Parliament*, though for the *Necessary Defence of the Realm*; yet the *Commons* of that Age have answered [*Que* N'oseront assentir, for those are the words of the Roll] That they

* Rot. *Parl.* 13 *Ed.* 3. num. 8. Claus. 13 *Ed.* 3. *pars* 2. *Memb.* 1. *Dorso.*

they durſt not agree thereto, till they had conferr'd with the Counties and Boroughs for which they ſerved; which Sir * *Edward Cook* alſo ſaith is a Law and Cuſtome of Parliament.

* 4th *Inſtitutes* fol. 14, *and* 34.

Nay, where the *Point* debated hath been of concernment onely to one particular Body of Men in the Kingdom, as the *Merchants*, &c. the * *Commons* would determine nothing therein till they had firſt conſulted the Merchants themſelves, how far the matter might ſtand with the Profit and Convenience of the ſaid *Merchants*. What ſhall I ſay more of their Zeal againſt thoſe which have preſumed to procure or adviſe any Breaches upon the Publick *Propriety*, of which kinde yet (**in my Second Part of the Bankers Caſe**) I may hereafter produce ſundry Calamitous *Examples*. The time would fail me ſhould I enlarge upon that inviolable Bulwark of our *Liberties* and *Property*, the (*a*) **Magna Charta**, *or* **Great Charter** *of* **England**, A *Charter* purchaſt with the (*b*) *Treaſure*, and ſeal'd with the (*b*) *Bloud* of our Anceſtors. A Law promulg'd and eſtabliſht to the Engliſh, with a (*d*) *Terrour* and (*d*) *Solemnity*, inferiour onely to that of the *Holy Commandments* by God himſelf (*f*) to the *Jews*. (There was here no *Thunder* or *Lightning*, it's true; but there was ſo dreadful a *Fulmination* of Curſes upon the Violaters thereof, that no man ever yet conſidered them without *Horror* and *Aſtoniſhment*.) A Law rever'd by former *Parliaments*, to that Degree, that they Enacted (*g*) *Tranſcripts* thereof to be carefully preſerved in all the *Cathedrals* of the Realm. That it ſhould be (*h*) *Four times* a year publickly read before the People. That twice in the year the *Prelacy* (*Pontificalibus induti, & Candelis accenſis*) ſhould thunder out the greater (*i*) *Excommunication* againſt the Infringers thereof, though but in

(*a*) *Preface to* Cook's 2 *Inſt.*
(*b*) Moore's *Rep.* 797. *per* Popham *Chief-Juſtice*
(*d*) Mat. Paris 839. Daniels *Chron.* 169. Mat. Weſt. Speed, *&c. in* 37 H. 8.
(*f*) Exod. 19. 16.
(*g*) Cook's 2 *Inſt.* fol. 525, 526, 527.
25 Ed. 1. *cap.* 5.
(*h*) 28 *Ed.* 1. *cap.* 1.
(*i*) 25 *Ed.* 3. *cap.* 4.

Word

Word or *Councel* (ſaith the Statute.) That the Lord (*k*) *Chancellor*, and all the great *Miniſters* of *State* upon entry into their *Offices*, ſhould conſtantly be ſworn to the obſervation thereof. That it ſhould be (*l*) *Allowed* as the *Common Law* by all Officers of Juſtice. That all (*m*) *Statute-Laws*, or (*m*) *Judgments* in Oppoſition thereto ſhould be *Null* and *Void*. Nay, that the very *Prieſts* and (*o*) *Confeſſors* ſhould frame the *Conſciences* of the People to the obſervance thereof. And laſtly, a Law (*p*) confirmed by no leſs than 32 ſeveral Acts of *Parliament*. And what was the Reaſon of all this *Veneration* and *Diligence*? Was this **Charter** of that *Sanctity* and *Importance*? Yes ſurely, The *Preſence* thereof was then thought as neceſſary to the *Engliſh*, as that of the *Palladium* to the *Trojans*, the Holy *Ark* to the *Hebrews*, the *Sea-Banks* to the *State* of *Holland*. In *Company* of this *Tutelar*, there was no poſſible *Danger*; in the *Abſence* thereof no poſſible *Safety*. Such then was the Care of our *Anceſtors* (*Wiſe men perhaps, though not ſo great Clerks*) in the *Munition* and Fencing about of their Rights and *Properties*! And ſo invincible was their *Zeal* to tranſmit theſe *Jewels* to their Poſterities, with the ſame *Luſtre* and *Beauty* that they themſelves had received them from their *Predeceſſors*. Theſe Old Engliſh *Heroes* ſeeming to me to bear always in minde that gallant ſaying of (our Countryman and Great Captain) * *Galgacus*, when his Army was in the Inſtant of joyning Battle here with the *Roman Invaders*. *Et Majores veſtros, & Poſteros cogitate*. Fellow-Souldiers (ſaith he) **Remember your Anceſtors, and your Poſterities.** A ſhort Speech, but containing more of Argument and Perſwaſion than can be expreſt in ten Reams of Paper.

Thus I have trac'd the Footſteps of *Property* in this Kingdom, in Caſes of *National Danger*, from the

(*k*) Rot *Parl.* 15 *Ed.* 3. *Nu.* 10, & 37.

(*l*) 25 *Ed.* 1. *cap.* 1.

(*m*) 42 *Ed.* 3. *cap.* 1. & 25 *Ed.* 1. *cap.* 2.

(*o*) Pupilla Oculi, *fol.* 50. *cap.* 22. *De Sententia lata ſuper* Magnam Chartam.

(*p*) Cook's 1 *Inſt.* 81. *a. Preface to the* 2*d Inſtitutes.*

* Tacitus in Vita Agricolæ.

the time of the *Norman Conqueſt*, to 17° *Caroli primi* a ſucceſſion of time containing little leſs than ſix *Centuries*, viz. *Five hundred threeſcore and fourteen* years. And during the Regiments too of ſundry of our Kings, Renowned all the World over for their *Wiſdom*, *Policies*, and *Courage*: And it is more than probable, that Princes thus qualified would not eaſily have departed with ſuch a *Jewel* of their Crowns, if they had been at any time in juſt Poſſeſſion thereof. I do not ſay yet, but this Law by pernicious *Councels* hath been often violated, and this fair *Helen* of *Property* thereupon Raviſh'd away ſometimes, and Forc'd. But then I muſt add, that the *Great and Publick Councels* of thoſe Ages, have conſtantly made freſh purſuits after her, brought her home again in *Triumph*, munited her with ſtronger *Guards* for the future; and in fine, ſeverely *Swindg'd* and puniſht her *Raviſhers*. For that familiar ſaying of Sir *Edward Cook*, will remain a *Maxime* of Eternal Truth in this *State*: **That no Subject (though never ſo potent and ſubtile) ever contronted, or juſtled with the Law of England, but the ſame Law in the end infallibly broke his Neck.** Let the *Hee-Goat* (as the * Poet ſaith) by browſing up on the *Vines*, think to deſtroy the very Species and Kinde of that Tree; yet notwithſtanding there will be ever *Wine* enough found to pour into his *Horns* when he comes to be *Sacrificed*.

* *Rode Caper Vites tamen hic cum ſtabis ad Aras. In tua quod fundi Cornua poſſit, erit.*

I am not ignorant, there be thoſe in the World who as well in *Latine* as *Engliſh*, have, not long ſince, publiſh'd *Doctrines*, *ex diametro* oppoſite to thoſe I have aſſerted in this, and my other Sections, *viz. That the Kings of* England *are abſolved or looſed from all Laws: That they may change the Laws: That they have an unlimited power of Impoſing Taxes, without conſent of the Subject*

either in Individuo, *or of his Repreſentatives in Parliament: And that ſeveral of our Princes have accordingly of Right exerted this power. That the ſame Power is in no wiſe reſtrain'd, or limited by the Sanctions or Statute-Laws of their Predeceſſors, No, nor by thoſe made and Enacted by themſelves. That* Magna Charta (or *Chartula*, as he ſtiles it) *and all other the like Muniments of Common Property (though they were a hundred times longer) are yet of little Value or conſideration in his Opinion. That the King (as it ſeems to another Gentleman) may by Law, and in* **Right of his Soveraignty**, *at this day Demand and Extort Loans of Money from his Subjects upon pain of* **Impriſonment**, *and* **Confiſcation of Goods**, *&c.* The Poſitions (I muſt needs ſay) are bold and daring; and if they had been as *ſoundly* proved as they have been confidently affirm'd, the *Advice of ſtopping the* **Exchequer** *had been a good and wholſome Councel.* But when theſe Doctrines are well examined by deliberating Minds, I doubt not but it will appear, that theſe *Authors* have **Either** obtruded their own *Conceptions* upon the World without the leaſt colour of Warrant from the *Records* and *Memoires* of this Nation, **Or** they have argued *à Facto ad Jus*, never conſidering that the *Violations* and *Exorbitances* of this nature, when ever they happened, have been always complain'd of in *Parliament*, and conſtantly redreſs'd. **Or** elſe (as King * *James* hath well obſerved) they diſtinguiſh not between the State of *Kings* in their firſt *Original*, whereof ſome were by Conqueſt, others by Election; and the preſent ſetled State of *Kings* bound up by their *Coronation-Oaths*, and other *Pactions* with their People, to obſerve the *Laws* and *Cuſtoms* of the Countries over which they preſide. **Or Laſtly**, they conſider not that each particular *State* is founded upon its own

* *In his Speech in Parliament* 1609. *See his Works*, fol. 531.

own proper and individual *Laws* and *Conſtitutions*. I ſuppoſe the People of *Conſtantinople* and *Moſco* would take it for no ordinary Over-reach in *Logick*, if an *Engliſhman* ſhould argue thus with them, *viz.* Our King *Harry the Eight* could not have done this or the other thing by the *Laws of England: Ergo*, your *Emperours* his Contemporaries, could not have done the ſame thing by the *Conſtitutions* of *your Government*.

It is moſt plain that King *William* the firſt (who yet had the beſt colour to do otherwiſe of all Others) made no Claim to that *Arbitrary Power* theſe Gentlemen do fancy, as I have in good meaſure proved in the beginning both of my Second, and this preſent *Section*. For though, it's true, his Victorious *Sword* gave him the *Hope*, yet the Aſſurance and *Poſſeſſion* of the *Crown*, he obtained by *Compoſition* and *Fact* with the People, by which he oblig'd himſelf to an inviolable *Obſervance* of the Antient *Laws* and *Liberties* of this Kingdom; for ſo do (p) *Simeon Dunelmenſis*, (q) *Florentius Wygornienſis*, (r) *Roger de Hoveden*, (s) *Thomas Stubs*, and all other our old Chroniclers proclaim with one Voice. *He was Crowned by* Aldred *Archbiſhop of* York *at* Weſtminſter: Eodem Rege *Wilielmo* **Pius** (ſay they) ante Altare Sancti *Petri* Apoſtoli, coram Clero & Populo, **Jurejurando promittente**, ſe velle cunctum Populum ſibi ſubjectum juſte & Regali providentia regere; Rectam Legem ſtatuere, & tenere; Rapinas, injuſtaq; Juditia penitus amovere]. *The ſaid King* William (ſay they) *having* **Firſt** *before the Altar of St.* Peter *the Apoſtle, in the preſence of the whole Clergy and Populace,* **promiſed by Solemn Oath** *that he would juſtly and with Kingly Providence govern his People; make and keep right Laws, and clearly aboliſh all Rapines, and unjuſt Judgments.* And *William* of * *Malmsbury*, (one of our exacteſt Hiſtorians)

(p) De Geſtis Regum *Anglorum*. Col. 195.
(q) Chronicon, *pag.* 422.
(r) Annal. pars prior, *pag.* 450.
(s) Acta pontif. *Ebor. Col.* 1702. *See* prefacio *Rogeri Twiſden* ad Leges *Wilielmi* primi, in Archaionomia *Abrahami Wellechi*, pag. 155, 156.

* De Geſtis Pontiff. *Anglorum*, Lib. 3 *pag.* 271.

Hiſtorians), living in, or near that time, ſaith, *That the ſaid* Aldred *Crown'd King* William [Exacto prius coram omni populo **Juramento,** quod ſe modeſte erga ſubditos ageret, & æquo Jure tam *Anglos* quam *Francos* tractaret], *having* **firſt** *before all the People* **exacted from him an Oath,** *that he would behave himſelf with modeſty towards his Subjects, and that he would Treat as well the* Engliſh *as* French *with Juſt Law.*

The Chronicle of * *Brompton*, and *Gulielmus* (a) *Nubrigenſis* relate more fully the Story of his *Coronation* and *Oath* in this manner. Cumq; *Willielmus* Dux *Normanniæ*, &c. *Now when* William *Duke of* Normandy (ſay they) *Conqueror of* England, *fearing much the Name of Tyrant, and Sollicitous to be ſtiled a Lawful Prince, had earneſtly deſired of* Stigand (then Archbiſhop of *Cant.*) *that he would Crown him King, but* Stigand *fearing to impoſe his hands upon an Invader of anothers Right, and a man yet reeking with Blood, refuſed; Thereupon* Aldred *Archbiſhop of* York, *a good and prudent man, was call'd, who wiſely conſidering that he was to give place to Time and Fate, and that the Divine Ordinances were not to be reſiſted, hoping alſo that he might thereby lenifie the Aſperities and harſhneſs of this fierce Prince, undertook the Office.* [Prius ipſum Regem *Willielmum* (*ſay the ſame Hiſtorians*) ad Jura Eccleſiæ *Anglicanæ* tuenda & conſervanda, Populumq; ſuum recte regendum, & *Leges* rectas ſtatuendum, **Sacramento ſolemniter aſtringens**]. *Firſt binding up the ſame King* William **ſolemnly by Oath** *that he ſhould defend and keep the Rights of the Church of* England, *and Govern his People juſtly, and Eſtabliſh Righteous Laws.*

To which I ſhall add the words of * *Shardelow* (a great Lawyer in the Reign of King *Edward* the 3*d*).

* Col. 962.
(a) Lib. 1. *cap.* 1. pag. 1, 2.

* *Kelway's* Rep. 143. *b.* *In* Itinere Temps *Ed.* 3. *Seldeni* ad *Eadmerum Notæ* pa. 211.

3.) who when the Kings Council in a *Quo Warranto* againſt the Abbot of *Peterborough* would have made a *Charter* of King *Edgar* void, becauſe they alledged *That all Franchiſes were devolved to the Crown by the Conqueſt, replied thereto*, Le Conqueror ne vient pas, *&c. The Conqueror came not at all* (ſaith he) *to put any who had lawful poſſeſſion out of their Rights, but to diſpoſſeſs thoſe who by their wrong had ſeized upon any Land in Diſenheriſon of the King and his Crown.* And Laſtly, **Daniel* (a Judicious Hiſtorian) tells us in the Life of this Prince, *That he did never claim any power by* **Conqueſt**, *but as a Regular Prince ſubmitted himſelf to the Orders of the Kingdom, deſiring to have his Teſtamentary Title (howſoever weak) to make good his Succeſſion, rather than his* **Sword**: *And though the ſtile of* **Conqueror**, *by the Flattery of the Time, was after given him, he ſhewed by all the courſe of his Government he aſſumed it not, introducing none of thoſe Alterations which followed, by Violence, but by a milde gathering upon the Diſpoſition of the State, and the Occaſions offered, and that by way of Reformation.*

**In the Life of* William *the firſt, pag.* 36, 37.

It is moſt evident then from the Premiſes, that this King *William* the *Great* (as ſome of our * Records ſtile him) diſclaimed in all the ſaid Deſpotical and *Arbitrary* courſes of Government, and therefore his Succeſſors had the leſs reaſon certainly to aſſume thoſe Powers to themſelves. I ſhall be thought here perhaps to have dealt in an *High* and *tender* Point. But yet I hope it may be as lawful for *Me* to preſcribe *Antidotes*, as for *other Perſons* openly to Adminiſter *Poyſons*. And we have Reaſon to praiſe God that we live under a *Juſt* and *Gracious Prince*, that is no ways diſpoſed to imbibe and drink in *Doctrines* of this Nature.

* 8 *Hen.* 1. Seldeni ad Eadmerum *Notæ p.* 211.

And now I cannot but condole and bewail my ſelf, that I have had ſo invincible an occaſion adminiſtred

niſtred to me here, of diſturbing the reſt of theſe ſleeping Muniments of **Property**; but this Preſumption alſo muſt be added to the Black Train of thoſe Calamities which follow this *Pernicious Councel*. It is but natural to Mankinde, to bring in what Arguments they can to preſerve their undoubted Rights, eſpecially when irritated by that unhappy *Thing*, which renders men not onely *Miſerable*, but (as the (*a*) Poet ſaith) *Ridicule* and *contemn'd*: Neither have I here (I hope) invaded the juſt *Regalities* of his ſacred *Majeſty* (for which no perſon hath a higher Veneration than my ſelf) but rather confirm'd them: For (as Sir *Francis* (*b*) *Bacon* then *Attorney-General* ſaid) *Whilſt the Prerogative runs within its Ancient and proper Banks, the main Channel thereof is ſo much the ſtronger; for Overflows* (he adds) *evermore hurt the River*. Certainly it was no ill ſaying of * *Plinius Junior* to the Emperor *Trajan*. [*Fælicitatis eſt poſſe quantum velis, magnitudinis velle quantum poſſis*] Sir, *quoth he, It is an happineſs for your Majeſty to be able to do what you will, but Greatneſs for you to do what you juſtly may*. And (*c*) *Comines* (that honeſt French Stateſman) Notes, *That it is more Honourable for a King to ſay* [J'ay des Subjects ſi bons & loyaux, *&c.*] **My Subjects are ſo good and Loyal as to deny me Nothing**, *than to ſay*, **I take what I pleaſe, and I will keep it.** *And thoſe Courtiers* (adds he) *that preach any other Doctrine, do not a little miſtake the Intereſt of their Maſters, and are ſo far from* (*d*) *Exalting their Grandeur and Prerogative, that they make them indeed no Kings*. For, as (*e*) *Bracton* ſaith, [*Non eſt Rex ubi dominatur voluntas.*] *It is not a King, where Will and Pleaſure bear the Sway*, but rather ſome * *Cyclopick Monſter, which eats and drinks the Fleſh and Blood of Mankinde*.

(*a*) Juvenal. Satyr 3.

(*b*) 1 Reſuſcitatio *fol.* 65.

* In Panegyrico ad *Trajanum*.

(*c*) Lib. 5. cap. 18.

(*d*) Forteſcue de laud. leg. Ang. *cap.* 14. *in fine*.

(*e*) Lib. 1. *cap.* 8. & Lib. 3. *cap.* 9. *fol.* 107. *a. b.*

* *King* James *in his Speech to his Parliament* 1609. *See his Works* fol. 531.

SECT.

SECT. VII.

The Deciſions of the Civil Law in Caſes of National Danger. That the Normans *and* French *did formerly enjoy* Parliaments *in the height of Freedom; and that they were neither Taxable or otherwiſe Chargeable, but by their own* Conſents. *When, and by what* Wiles *the ſaid People were decoy'd out of their ſaid* Parliaments *and Immunities, prov'd by moſt Authentique* Hiſtories *and* Records. *Farther Proof, That the* Property *of the Engliſh Subject is not alterable without his* Conſent, *in Caſes of National Danger.*

AND (as the Laws of *England*, ſo likewiſe) the *Imperial* and *Civil* Laws are plainly with us in this point. *In time of War*, ſaith (*a*) *Grotius*, *The Subjects Property may not be Infringed*, [*Niſi graviſſima & ſumma Neceſſitate*] *Unleſs in the very Extream, and laſt Neceſſity.* [*Talia non pro-cedunt* (ſaith (*b*) *Ulpian*, treating upon this ſubject) *Niſi ex magna & ſatis neceſſaria Cauſa*] *Theſe things may not be done, but upon great and palpable Exigences.* And it is not unworthy of Note, that the *Civilians* do evermore chain up this voracious *Lyon* of *Neceſſity*, with the hardeſt and moſt ſtrong Reſtrictions imaginable. For (*c*) *Firſt*, ſay they, Trial muſt be made whether the *Neceſſity* of *Violation* may not be evaded by ſome leſs *Injurious Expedients*

(*a*) De Jure Belli & Pacis, *Lib.* 2. *cap.* 2.

(*b*) Ulp. *l. ſi alius D quod vi aut clam.*

(*c*) *Leſſ.* Lib. 2. cap. 12. *dub.* 12. Nu. 70.

pedients. (*i*) *Secondly*, this is not to be allowed, where the *Poſſeſſors* are preſt with an *equal Want*. (k) *Thirdly*, that an aſſured *Reſtitution*, or *Compenſation* be made, when the *Neceſſity* ſhall be blown over. And therefore as it's true, that (*l*) *Xenophon* (a great Philoſopher as well as a General) having in his Wars an irreſiſtible *Occaſion* for Ships, Embargo'd all the Veſſels he could meet with: ſo it is *As* true, that (in this Interval) he preſerv'd the *Lading* ſafe for the *Merchants*, gave Food and Wages to the *Mariners*; and when the *Exigence* was over, *reſtored* the *Ships* to the *Proprietors*. But how well theſe three above-mentioned conditions have been obſerved in our preſent *Caſe*, all *Mankind* I think hath ſeen, or heard; and thoſe who are concern'd with the *Bankers* do to their Coſt, and ſome to their utter *Ruine*, I am ſure, feel.

(i) Grotius ib.

(k) Adrian quod lib. Art. 2. cap. 3.

(l) De exped. Cyri.

If any man after all this Evidence be yet unſatisfyed in this Point, I will ſend him to *France* (for I would rather find a Preſident there) and adviſe him to conſider the Caſe of *Normandy*. That *Dutchy* had been (ſaith my (*m*) Author) for ſome time rak'd with *Exactions* contrary to their *Franchiſe* and *Cuſtoms*, and thereupon complain to *Lewis* the 10*th*, the then *French* King: he by his *Charter* in the Year 1314, Recognizing the *Right* and *Privi-ledges* of theſe People, and the *Injuſtice* of their *Grievances*, grants, *that from that time forward, they ſhall be diſcharged from all Subſidies and Impoſitions to be laid upon them by Him, or his Succeſſors, without their free Conſents in Parliament*: yet with this deadly Sting in the Tail of all [*Si Neceſſitie grand ne le requiret*]. **Unleſs in caſes of great Neceſſity**; which Minute and almoſt inſenſible Exception, we ſee, hath eaten up (upon the matter) all their Immunities: for though theſe States may ſeem to Aſſemble, yet their Convention is little

(m) *Commentaires de* Guillaume Terrien *ſur le Cuſtomier de* Normandy. *Print at* Paris 1574. *cum Privilegio. Lieure* 2. Cap. 7. Fol. 26 & 27. *Des Gens de Trois Eſtates.*

(n) Comines History of France, Lib. 5 Forteſcue ca. 35.

better than the (n) carkaſs of a *Parliament*, and they are become but the neceſſary Executioners of the Royal Pleaſure. *And this* Charter *of the* Normans (as it was commonly ſtiled) *ſtands at this Day like the Old* Ruines *of ſome demoliſh'd* Fortreſs, *or like a* Sea-Mark, *to warn all ſucceeding* Merchants, *that upon that* Rock, *a* Ship *of the Second Rate had been formerly* Split *and* Deſtroyed.

And if I ſhould ſay that the *French* themſelves were *Wheedl'd* and Decoyed out of their *Parliaments*, by the very ſame Engine of **La Grande Neceſſite**; I ſhould not perhaps affirm the thing without Authority. *James* * *Howel*, our late chief Hiſtoriographer Royal, tells us, *That during the Fury of our* Engliſh *Wars in France* (in the Reign of our *Henry* the *6th*), *The Neceſſity of the Time caſt the Power of the* French *Three Eſtates*, (*as to the leavying of Taxes*, &c.) *Solely upon their* Charles *the 7th*; *and He* (upon the Expulſion of the *Engliſh*) *and his Succeſſors conſtantly after him*, (ſaith that Author), *have made a Vertue and Advantage of the ſame Neceſſitie.*

* *His Dodona's Grove, in the Chap. of* Ampelona. Andrew Favine *his* Theatre *of Honour*, Lib. 2. Cap. 12.

And the moſt ingenious Sir *Tho.** *Overbury* informs us (they are his own words), *That the Occaſion that firſt procured to the French King that Supremacy, that his Edicts* (*for impoſing Taxes at pleaſure*, &c.) *ſhould be Laws, was the laſt Invaſion of the* Engliſh. *For at that time they poſſeſſing two parts of* France, *the Three Eſtates could not aſſemble, whereupon they did then grant that power to* Charles *the 7th, during that War*; *And that which made it eaſie for* Lewis *the 11th, and his Succeſſors to continue the ſame*, (*the Occaſion ceaſing*) *was*, *That the Clergy and Gentry did not run the ſame Fortune with the People there, as in* England; *for moſt of the Taxes falling upon the People, the Clergy and Gentry being forborn, were eaſily induced to leave them to the King's Mer-*

* His Obſervations (in his Travails) on the State of *France*, in the Year One thouſand ſix hundred and nine, Under *Henry* 4th, *pag.* 13. Printed 1626.

cy,

cy *But the King* (continues he) *having got ſtrength upon the Peaſants, hath been ſince the bolder to Invade part of Both their Liberties. And for the Aſſembly of the three Eſtates, it is there grown now as extraordinary as a General Councel,* **with the loſs of which the French Liberty fell.** (So far he).

Upon theſe Reaſons Sir *Thomas Smith* (to ſay no more of him, **a Queen Elizabeth-Counſellor,** and that had been ſundry times our Ambaſſador in *France*) doubts not to rank that State among the *Deſpotique* and Tyrannical Governments, *becauſe* (ſaith * he) *thoſe Kings make and abrogate Laws and Edicts, lay on Tributes and Impoſitions of their own Will, or by the private Councel and Advice of their Friends and Favourites only, without the conſent of the People.* Which Enormities (adds he) were much improved by *Lewis* the 11*th*, who would often boaſt and ſay, *That he had brought the Crown of* France, Hors de page, *as one would ſay, out of Wardſhip.* Now for the Advantages this freedom of Wardſhip hath brought to the Crown of *France*, let's hear Sir *Walter* **Raleigh.* *Since this freedom from Wardſhip* (they ſo much crack of, ſaith he) *and raiſing Moneys by Letters and Edicts only, if you mark it,* France *was never free in effect from Civil Wars. And lately* (adds he) *it was endangered either to be Conquered by the* Spaniard, *or to be Cantonized by the Rebellious* French *themſelves.* And here (by the way) perhaps we have found out one Reaſon of a *Secret* in that Government, which is to diſcharge their turbulent and fermenting Blood upon their *Neighbours*; That ſo while their People are amuſed with *Conqueſts* and Acquiſitions *abroad*, they may have the leſs leiſure to meditate and contrive *Miſchief* and *Sedition* at *Home.*

* His Commonwealth, *Lib.* 1. *cap.* 7.

* Prerogative of Parliament, *in principio.*

Nay, *Philip de Comines* (of the *Cabal*, or moſt ſecret Councels to * two *French* Kings, and a *Man*

* *Letres* to *Charles* 8th

living about a Century and a half ago) tells * us, *That their* Charles *the 7th* (the Father of the said *Comines* his Master *Lewis*) *was the first that gain'd, and began that Seignioral way of Imposing Taxes*, [*Sans le Consentement des Estates de son Royaume*] *without the good will of the Estates of his Realm; which was done at first upon great Necessities, and* (among other Reasons) *to secure his new Conquests upon Expulsion of the English; and the Great Lords of* France (saith he) *agreed thereto*, [Pour certain **Pensions** qui leur furent promise, &c.] *Upon promise of certain* * **Pensions** *in lieu of what should be leavied upon their Lands. But by this Encroachment* (continues he) *the said King had grievously burthened his own, as also the Souls of his Successors; and by keeping up a* **Standing Army** *there, had given* [*Un cruel Plage*] *a cruel Wound to* France, *of which it was like a long time to bleed.* And the very same *Comines* (who was not at all ignorant of the Constitutions of the *French* Government) when in * another place he had for some time in most pathetique manner bewail'd the *Misery* and *Vassalage* of the *French people*, he can no longer contain himself, but gives Vent to his *Passion* in these very words: [*Nul Roy ne Seigneur sur terre, ait Pouvoir de mettre un Denier sur ses Subjets, sans Octroy & Consentement de ceux qui doivent payer, si non par Tyrannie ou violence*] **No King, or Potentate upon earth** (saith he) **hath power to leavy one Penny upon the poor Subject without Consent and Permission, unless by downright Tyranny and Rapine.**

* Lib. 6. cap. 7.

*Note the omnipotent Vertue of *Pensions*.

* Lib. 5. cap. 18.

And of the same Opinion is *John* * *Bodin* (the late famous *Lawyer* and *Statesman* of the *French* Nation) who after he hath inform'd his Reader, *That the English are not Chargeable by their Princes with*

* De Republ. Lib. 1. cap. 8. de Jure Majestatis, p. 90.

with Impositions, but by Consent of their Three Estates, presently adds, [*Ego vero cæteris Regibus non plus in eo genere quam Regibus* Anglorum *licere puto; cum Nemo sit tam improbus Tyrannus, qui aliena Bona* diripere *sibi fas esse putet*] For my part (saith he) it is my Judgement, that no other Prince whatsoever may lawfully do any more in this kinde than the Kings of England may, seeing there can be no Tyrant so Wicked or Impudent, as to think he may justly take away another mans Goods from him without his free leave and good will.

Stephanus * *Pasquirius* (Councellor and Advocate-General of the King in the Chamber of Accompts at *Paris*) hath about 80 years ago (as far as he durst) disclosed the ancient *Grandeur* and *Freedom* of the French *Parliaments* in point of *Taxes*, *Subsidies*, and other high Matters; as also by what *Intrigues* and *Gradations* his Country-men were *beguiled* of those Immunities. And for their *Assemblies* of later Time, he (at length) takes the Courage to confess, that they served onely for a certain *Engine* [*Per la quel sans* Esclandre *sont verefiees les* Volluntez *de nostre Prince*] By the which (saith he) the Wills of our Princes are with the less Slaunder and Scandal confirm'd and swallowed down. And a little after [*Reduire leurs* Voluntez *sous la* Civilite *de la Loy, Et que leurs* Edits *&* Decrets *passassent par l'*Alambic *de Ordre Publie*] To reduce the good Pleasures of our Kings under the Civility or *Complement* of a Law, and that their Edicts and Decrees may pass through the Alembick of Publick Ordinance.

* *Les Recherches de la* France, *Livre* 2. cap. 4. *Imprimees a* Orleans 1665. *avec Privilege du* Loüis 14.

* Histoire d'Angliterre, *&c. fol.* 835. *Dedicated to* Lewis *the* 13. *and Printed* 1641 cum Privilegio *of the said King.*

And *Andrew du* * *Chesne* (Historiographer Royal to *Lewis* the 13th) sets down the 27th Article of

of the Peace accorded between their *Charles* the ſixth, and our *Henry* the fifth, in theſe words. *Item que Noſtre dit Fils n'impoſera aucunes Impoſitions ou Exactions, a nos Subjets ſans cauſe raiſonnable, & neceſſaree, Ne autrement que pour le Bien public du dit Royaume de France, & ſelon l'ordonnance & exigence des Loix & Couſtumes raiſonnables & approuvees du dict Royaume. Alſo that our ſaid Son* (*viz.* the ſaid King *Henry*, who had bin lately affianced to the Daughter of *France*) *ſhall not impoſe, or cauſe to be impoſed any Impoſitions, or Exactions, upon our Subjects, without reaſonable and neceſſary Cauſe, nor otherwiſe but for the Common Good of the ſaid Realm of* France, *and according as the reaſonable and approved Laws and Cuſtoms of the ſaid Realm, do ordain and require.* Now if the Government of this Kingdom had been at that time *Seignioral* and Arbitrary, why was this cautelous proviſion made againſt Impoſitions not founded upon *reaſonable* and *neceſſary* Cauſes? Why is our King ſo curiouſly butted and bounded here in all *Exactions*, excepting thoſe which were for the *Common Advantage*? And why do they make ſuch a clutter about the *reaſonable Cuſtoms*, and *approved Laws* of the ſaid Realm? I am ſure no man can properly call that a *Cuſtom*, which is but of a Nights growth; or that a *Law approved*, which hath not had ſome tolerable pre-exiſtence, and undergone ſome former Trial and Experiments with *Approbation*.

It is moſt evident, that in the * Eighth year of our King *Henry* the fifth, (at what time he had compleated his Conqueſt of *France*) that the *French Nation* did then actually enjoy their *Three Eſtates*, in the *Heighth* and *Exaltation* of *Power*. And that no man may think I Write this without good Warrant, in proof thereof I do vouch our own *Parliament* * *Roll* of 9° of the ſaid King, wherein the

* *Anno Dom.* 1420.

* Rot. *Parl.* 9° *H.* 5. *pars prima*, Num. 14. *Approbacio Pacis inter Regna Angliæ & Franciæ, nuper concluſæ.*

the *Peace* and *Accord*, between the two Crowns, was ſolemnly ratified by our *Parliament*, in the which Record is recited this following Clauſe *verbatim*, [*Quod Carolus* (ſextus) *Rex* Francorum *Regali ſolio ſedens, Tres Status Regni ſui, videlicet Prelati & Cleri, necnon Proceres & Nobiles, ac etiam* **Cives, Burgenſes, Civitatum, Villarum, ac Communitas dicti Regni,** *Pacem predictam, ac Omnia & ſingula contenta in eadem,* **Approbarunt, Laudarunt, Acceptarunt, & Autorizarunt**] That *Charles* (the *ſixth*) *King of the* French, *ſitting upon his Royal Throne, the Three Eſtates of his Kingdom*, viz. *The Prelates and Clergy, as alſo the Nobles and Grandees, together with the* **Citizens, Burgeſſes of Cities and Towns, and the Commonalty of the ſaid Kingdom of France,** *the ſaid Peace*, &c. *did* **Approve, Allow, Accept,** *and* **Authorize.** (Words (if I miſtake not) ſufficiently evidencing the *Ancient* Energy and Vigour of *Parliaments* among the *French*, in the moſt ſublime and Superlative point of *Juriſdiction* too, that can poſſibly be imagined.) So that, I think, it will be plain enough from the Premiſes, that * **Car tel eſt noſtre Plaiſir,** So uſual in the modern *Edicts* of thoſe Kings, hath not always been a *Law* there; neither have the *Peaſants* of *France* evermore gone to Church on Sundays with *Wooden Shoos*, and *Canvaſe-Breeches*; Nor, in a Country ſo fertile of *generous Liquors*, always deluded their miſerable *Thirſts* with *cold Water*. And thoſe people may now ſing (or cry rather) with the Poet, *Fuimus Troes! Fuit Ilium! Sed jam Seges eſt ubi Trojæ fuit.*

* Such is our *Pleaſure.*

To that which hath been before alledged, *viz. That the Property of the* Engliſh Subject *is not violable without Conſent in Parliament, in Caſe of Na-*

qual Danger; I would only add these two following short *Notes*. *First*, that this appears to be a Fundamental Law of this Kingdom, from the very * *Writs* of *Summons* in all Ages to choose *Knights* and *Burgesses* for *Parliament*, Wherein the *King* first shews his Resolution to call a *Parliament* **pro Arduis & Urgentibus Negotiis**, Non Statum, & **Defensionem Regni concernentibus** (saith the Writ.) Then he commands the *Sheriff* to cause to be chosen the said *Knights* and *Burgesses*, invested with power to *do and consent* for their Countries **Super Negotiis antedictis.** And then proceeds, **Ita quod pro Defectu Potestatis hujusmodi dicta Negotia infecta non remaneant quovismodo**, &c. So then it's plain by the said *Writs*, That if no *Knights* and *Burgesses* chosen and return'd, no *Parliament*; If no *Parliament*, no *Defence* of the Kingdom ordinarily, or Dispatch of the *Arduous Affairs* thereof. Which is the Reason why our prudent *Ancestors* did so carefully provide for the frequent Convention of *Parliaments*, that the Kingdom might at no time want the means of its own *Defence* in Legal and Justifiable Ways. King * *Alfred* (the *6th* sole *Saxon* King of this Island) Ordained for a perpetual Usage [Que a deux toits per l'an, *saith the* (a) *Mirror*) *ou plus si event pur mister &c.*] *That twice in the year, or oftner if need be, in time of Peace*, Parliaments *should be assembled at* London. *In the Reign of* Edw. 1. (saith Sir *Edward* (b) *Coke*) *Parliaments were very frequent, and often holden*, &c. And in (c) *Edward* 3d his time, no less than two several Laws were made, that *Parliaments* should be held once a year, or more often if need be. And therefore * *Tacitus* (not without Reason) notes it as a Defect in our antient *Brittish* Policies, and that did not a little (*saith he*) facilitate the *Romane* Conquests

* *Cromptons* Jurisdict. des Courts, *pag.* 1 b.

* *Cokes* Preface to his 9*th* Rep. in Principio.

(a) Mirror of Justices, *ca.* 1 Sect. 3.

(b) 2 Inst. 408.

(c) 4 *Ed.* 3. *cap.* 14. 36 *Ed.* 3. *c.* 10.

* In vita Agricolæ, *ca.* 12.

Conqueſts here, that our *Anceſtors* did not then hold *common and publick Councels*. Nec aliud (ſaith that *Hiſtorian) adverſus Validiſſimas Gentes nobis utilius, quam quod in **Commune** non conſulunt. Ita dum ſinguli pugnant, univerſi vincuntur.

* *Ibid.*

Secondly, **No Parliament, No Penny**, hath been always taken notice of as a principal *Foundation* of this Government even by our very *Neighbour Princes, and States; who have in all Ages made their Approaches upon this Realm, and evermore valued Us in proportion to the Correſpondency they obſerved between our Kings and their Parliaments*: For (*ſeeing the power of every Prince is computed from his Treaſure and Martial Men, and thoſe again by the Love of his people*), they well enough knew, that as long as a good underſtanding was maintain'd *there*, our Princes could never want the *Sinews* either of the *Purſe*, or of Valiant Mens *Arms*. But on the other ſide, when theſe great *Wheels* hapned to be out of Order, *then* the *Royal Chariot*, (they knew), would move heavily; and *then* (like *Sampſon* bereav'd of his *Hair*) they look'd upon the Prince as under a State of *Weakneſs*; And at *that Time* commonly it was that theſe *Philiſtines* aſſail'd us with Succeſs. That this is no trivial *Remark*, will be evident to any Man that ſhall turn over the antient or modern *Hiſtories* of this Kingdom, and particularly (to deſcend no lower) the Lives of two of our great *Kings*, wrote by * two moſt *learned Lords*, and great *Stateſmen* of our own *Nation*.

* Lord *Bacon's* H. 7. Lord *Herbert's* H. 8.

I ſhall now draw the Arrow to the Head, and conclude this Section with a certain remarkable Clauſe contain'd in the Anſwer of his Late *Majeſty* of glorious Memory, to the 19 Propoſitions preſented to him in (*o*) *June* 42. The Words to a Sillable are theſe.

(*o*) 2 *June*, 42.

* Again

* See the great Volume of the Works of King *Charles* the first (Printed *cum Privilegio*) among the Declarations there, *Fol.* 97.

* Again (saith his *Majesty*) that the Prince may not make use of his High and Perpetual Power, to the hurt of those, for whose good he hath it, and make use of the Name of Publique Necessity, for the gain of his Private Favourites and Followers, to the Detriment of his People, The House of Commons, (an excellent conserver of Liberty, but never intended for any share in Government, or the chusing of them that should Govern), is solely intrusted with the first propositions concerning the Leavies of Moneys, (which is the sinews as well of Peace as War), and the Impeaching of those who, for their own Ends, though countenanced by any Surreptitiously-gotten Command of the King, have violated that Law, *WHICH HE IS BOUND (WHEN HE KNOWS IT) TO PROTECT; AND TO THE PROTECTION OF WHICH, THEY WERE BOUND TO ADVISE HIM, AT LEAST NOT TO SERVE HIM IN THE CONTRARY.*

SECT. VIII.

The Rapines *of* Ed. 1. *and* Ed. 3. *upon the Subjects Moneys, in the* Churches, *and* Monasteries, *and other places of the Kingdom, considered at large, and Answered. What courses the Law hath provided*

vided for the Defence *of the Land, and Seas, where the Danger is inſtant, and cannot ſtay for a* Parliament. *The Paſſionate care and zeal of this State, for the* Bankers *and their Creditors, upon the* Dutch *Invaſion in the* Year---67.

AY, *But did not our* Edw. 1. *and* Edw. 3. (ſaith the Adviſor) *do greater things than ſtopping the* Exchequer? *are not our* Chronicles *full, of their Rapines upon the People, and their breaking even into the Churches and Abbies, and raviſhing from thence the Treaſure of the Subject, for Supply of their Wars?* *Object.*

Admitting this Allegation to be true, I Anſwer.

Firſt, we Diſcourſe not here what hath been done, *de facto,* but what may be done *de Jure.* And to counterbalance theſe, we may put other Ancient and Late Princes of this Realm of a contrary complexion into the other Scale. *Sol.*

Canutus (the firſt *Daniſh* King of this *Iſland*) commanded by ſevere * *Edict,* that his *Councellors* of *Eſtate, ſhould not preſume to ſuggeſt to him, any ſiniſter Projects of levying Money upon his Subjects,* [Quia nulla mihi Neceſſitas eſt, ut iniqua Exactione pecunia mihi congeretur.] *For I have no need,* ſaith he, *to ſupply my ſelf with money by ſuch wicked Exactions.* *Malmsbury *de Geſtis Reg.* Angl. *L.* 2. *C.* 11.

It is notorious alſo, that *Queen* (b) *Mary* did by her *Letters Patents,* of her meer *Grace* and great *Clemency,* for the *Succour* and *Relief* of her Loving *Subjects* (ſaith the Record) *Pardon and remit a whole Subſidy given by them to her Predeceſſor*; which releaſe was afterward confirmed by Parliament. And (b) Old Statutes 1. *Mariæ, Seſſio* 2. Cap. 17.

Queen

(c) Camden *vita* Elizabethæ.

Queen (c) *Elizabeth* alſo remitted one Subſidy of four granted to her, ſaying, *It was all one to her, whether the Money were in Her Subjects Coffers, or her own.* The ſame *Queen*, (ſaith (d) *Cotton*) *for the eaſe of her People pawn'd the Jewells in the* Tower; *beſides the often Morgage of her Lands.*

(d) Poſthuma, pag. 176.

I could yet go on in *Examples* of this Nature, but becauſe I have in good meaſure fill'd this *Scale* before in my fifth Section, with *Princes* of a like *Pious Temper*, I ſhall think fit at preſent to deſiſt.

Secondly, theſe Depredations begot many good Laws for the firmer munition of *Property* for future time; and particularly, this violence of *Edw.* 1. was executed in the 25*th* Year of his Reign, and in that very Year (and not in 34, as our Printed Statute-Books ſay) was made the Statute *de Tallagio non concedendo, with which the* Engliſh *defend themſelves* (ſaith Bodine) quaſi Clypeo, *as with a Buckler, againſt their Prince.*

* De Repub. *lib.* 1. *cap.* 8.

Thirdly, this King (as our Chronicles affirm) laid this *Outrage* much to heart, and that before his Royal Palace at *Weſtminſter*, invironed with infinite numbers of his People, thither by him purpoſely ſummoned; and being rais'd upon an * Aſcent or Pedeſtal, the better to be heard and ſeen (the *Prince*, Arch-biſhop of *Canterbury*, and the Earl of *Warwick* alſo ſtanding with him) [*Rogavit populum accepta licentia* (ſaith (e) *Knighton*) *ut omnia condonarentur ei, & orarent pro eo*]. **He earneſtly intreated the People that they would forgive him, and pray for him.** And (f) *Matthew Weſtminſter* goes yet farther [*Rex erumpentibus lacrymis*, (ſaith he) *veniam de Commiſſis humillime poſtulavit.*] **The King burſting forth into Tears, did moſt humbly ask pardon for what he had done,**

* Ligneus Gradus.

(e) Lib. 3. Cap. 9. Columna 2510

(f) Math. Weſtminſter *Pag.* 409, 410

(a

(a paſſionate tranſport of a *Prince* that before that time had rendred himſelf redoubtable among the *Saracens* as well as the *French*, and that had Triumpht over *Scotland* and *Wales!*) [*Dicens*, ſaith the ſame *Hiſtorian*, *ſe minus bene & tranquille quam Regem decceret. ipſos rexiſſe*, &c.] Adding, *that he had not* (*he confeſt*) *Governed them with that* Tranquillity *and* Tenderneſs *which became a* King *and* Father *of his* Country: *That the* Ayds *which they had granted him, or that his* Officers *without his* knowledge, *had extorted from them, were all expended in repeling the* Hoſtilities *and Malice of thoſe which* thirſted *after* Engliſh Blood. *Behold!* (ſaith he) *I am even* now *alſo going to expoſe my own* Perſon *to the hazards of War for your ſafety and Advantage, &c.* And after he had excuſed himſelf to them, with all the ſweetneſs of Expreſſion, adds, (*g*) [*Et omnia ablata reddam vobis*]. **And I will reſtore all that I have forced from you.** And in purſuance of this Promiſe, forthwith makes an * *Ordination of Councel*, to iſſue forth Commiſſions of *Oyer* and *Terminer*, into all the Counties of *England*, *To enquire what things had been forcibly taken by his Officers, out of the Churches or elſewhere, from the Clergy or Laytie, either to guard the Seas, or for any other purpoſe, with Warrants* or *without, during his Wars with* France, *and to determine thoſe matters.* Farther arming his *Commiſſioners* with theſe *Inſtructions*. Firſt, *if the things were taken by the Sheriff or other Officer of the King, without Warrant, there the Officer to Reſtore and be Puniſh'd for the Treſpaſs.* Secondly, *if the Warrant good, yet if the Bounds thereof Exceeded, then the Officer to make Satisfaction.* Thirdly, *were the Warrant good, and Executed according to the purport thereof, there upon Certificate*, [Le Roy, (*ſaith the Record*,) enterra tant qe il ſe tiendra a faire par Reſon,]

(*g*) Matth. Weſt, *ibid.*

* *Bundelæ Brevium de Privato Sigillo in Turre* London, *Anno* 25 Ed. 1. & *Pat.* 26 Ed. 1. *Mem.* 21.

ſon] **The King would thereupon make reaſonable Satisfaction to the parties wrong'd.** Which *Commiſſions were accordingly executed, (ſome of which I have ſeen) in which are contained many excellent particulars, too long here to be recited.

* Pat. 26 Ed. 1. *Memb.* 21. *De inquirendo ſuper gravaminibus populo Regni factis*, &c.

Now to compleat the *Conſtellation* of this Prince's *Glories*, I ſhall briefly add, *Firſt*, that (*Ad Exonerationem Animæ* H. *Regis patris noſtri*, as our * Records ſay) *To diſcharge the Soul of his Father King* Henry, *he made Honourable* Payment *even of his ſaid Father's* Debts. *Secondly*, That though as to the above-mentioned *Rapines*, he might in ſome meaſure have **Shifted** himſelf upon the *Evil Councels* of his * Lord-Treaſurer *William de Marchia*, and by this ſo fine an *Artifice*, have with the leſs Scandal drunk up the *Tears* of the *Widow*, and *Saginated* himſelf with the * *Bloud* of the *Orphan*; *yet he thought ſuch Act far beneath the Grandeur of a King of* England, *and to ſavour of an Exility and Narrowneſs, not at all Compatible with his own great and Stupendious Soul.* And Laſtly, when he was about to ſurrender this his Mighty *Soul* into the *Boſome* of the King of Kings, and had ſent for the young Prince, to inſtil into his tender Minde no leſs than 34 years Experience in the *King-craft*; *In the firſt place*, (ſaith * *Walſingham*) *he admoniſht him* [*Juſtum fore & affabilem univerſis*, **Conſtantem in Dictis & Factis**, familiarem bonis, & præcipue Miſeris miſericordiam impertiri] *To be juſt and affable to all men*, **To be conſtant to his Word and Deed.** To be familiar with good men; **But above all, to be compaſſionate to the Diſtreſſed.** So that upon the whole matter, notwithſtanding this Objection, I think we may concur well enough with Sir *William Herle* Chief-Juſtice of the *Common Pleas*, who

Math. Weſt. Polydore Virgil vita *Ed.* 1

* Pecunia eſt Sanguis.

* Vita *Ed.* 1 *Fol.* 93.

in

in † 5 *Edw.* 3. ſaith of this *Edw.* 1. (in whoſe time he lived, and ſerved him) [*Que fuit pluis ſage Roy que unques fuit*] **That he was the wiſeſt King that ever was in the World.** *And* (* Bacon *adds*) *the beſt Law giver to this Nation.*

† *Paſch.* 5 Ed. *caſus* 5. Cook's 2 *Inſt.* 535.

* Bacon's *H.* 7. *fol.*

For **Edw.** 3. his *Rapines* likewiſe produc'd very beneficial Laws to the Subject, as will be manifeſt to any man that ſhall peruſe the Statutes of that time. It was an Action which he never juſtified, but *Excuſed* with ſingular *Reſentments*, as appears by his Elegant Letter (extant upon * Record) to *John Stratford* then Arch-Biſhop of *Canterbury*, *In the which he recounts the Tallages, and Exactions, with which he had burdened his People, which* (he ſaith) *he could not mention without inexpreſſible grief of Minde; and there excuſeth himſelf upon the inevitable Neceſſity of his Wars; and deſires the Arch-Biſhop to* pacifie *the people by Grant of Indulgences, Godly Exhortations, and to ſtir them up to pray for him, hoping ere long he ſhould* [Beneficiis Compenſativis Populum ſuum viſitare & conſolari] *make them Compenſation, and give them Comfort.*

*Rot. Almaniæ 12 *Ed.* 3. Mem. 22. in Dorſo, De excuſando Rege Populum verſus.

And was this Promiſe of his nought elſe but a thin Air, and Deluſion? Nothing leſs, I'll aſſure you: For (to omit other Evidence) I finde by the Printed * Statutes of that time, That this Prince (the better to enable his poor *Commonalty* to pay their *Subſidies*, for carrying on his *Wars*) did frequently grant to them, the *Amercements, and Forfeitures of all Labourers, Artificers, Regrators, Vitailors, Hoſtlers, and other Malefactors throughout* England. (a Matter of no deſpicable value.) Nay, (which is far more) for the Alleviation and Eaſe of his People in this kinde, he did not ſpare three ſeveral Times, (* *Invadiare magnam Coronam Angliæ* (ſay our Records) *to Pawn even the very Imperial Crown of* England, once for 4000 *l.* to certain

* *Old Book of Statutes* 23 Ed. 3. *cap.* 8. 25 Ed. 3. *cap. ult.* 36 Ed. 3. *cap.* 14.

* Pat. *pars* 1. *a.* 17. Ed 3. Pat. 24 Ed. 3. *Memb.* 21. *Clauſ.* 30 Ed. 3. *Com. de Term Hill.* 38 Ed. 3. *ex parte Kem. Regis.*

certain Merchants of *Florence*, and twice after to Sir *John Weſſenham* his own Merchant, in whoſe Cuſtody it remained eight years together.

Object. *There remains yet one Objection, with which I am enforc'd to encounter*, Se defendendo, *becauſe I perceive it ready to aſſail me. And that is, that the Parliament is a great Body*, (I ſpeak it with all due Reverence) *and moves ſlowly; and therefore if the Law allow not ſome other courſe (as this of* Stopping *the* Exchequer, *or the like) in raiſing Money in caſe of ſuddain Danger, the Kingdom may be Loſt before the Parliament can ſupply; And like* Archimedes, *we may be plodding upon our* Schemes *and* Figures, *when the* Enemy *is entring our very Harbours.*

Sol. To this I anſwer, That all *Wars* are either *Offenſive* or *Defenſive*. If it be an *Offenſive* War, it cannot be ſuddain; for it is the *King's* own *Act*, and ſuppoſed to be the reſult of Mature Deliberation, and ſo there may be time enough to call a *Parliament*, if it ſtand with his Majeſty's good Will and Pleaſure. For as the Law hath preſcribed this Courſe alone, in ſuch Caſe to ſupply the King with the Subjects Treaſure; ſo it hath plac'd in him likewiſe the Power of uſing this Courſe as often as he thinks fit. *And a War begun by the Conſent and concurrence of the People* (we ſee) *is more vigorouſly proſecuted, and the Prince thereby becomes conſtantly more formidable to the Enemy.* If it be a *Defenſive* War by *Forrain Invaſion*, which I ſhall (to avoid Cavil) agree may be ſuddain (though a Great * *Stateſman tells us, That theſe Clouds are commonly viſible afar off, before the Tempeſt fall; to foretell which, hath been always conceived the Buſineſs and Care of ſtanding Councels.*) I ſay, if *Forrain Invaſion*, then firſt, the Impulſe of *Self-preſervation* (an indelible Character wrote on every Mans minde by the very hand of *Nature*) will encline all

* Comines Lib. 5. cap. ult.

all Mankinde to expoſe their *Lives* and *Eſtates*, which otherwiſe they muſt inevitably loſe. And this ſeems to be the Caſe of this Kingdom, in the year 88. for there was then no *Parliament* ſitting; but many of the *Worthies* of that time, (ſome of whoſe Names are * Tranſmitted to Poſterity) at their own private Charges, brought in *Men* and *Ships* to the *Common Defence*.

* Cambden vit. Elizab. 1588.

But *Secondly*, If we are to ſuppoſe that Men muſt be *Drag'd* and *Hal'd* to their own *Preſervation*; I ſay then the Law hath provided, *That in caſe of Forrain* Invaſion, *every* Subject *within the Land, High or Low, whether he hold of the King, or not, may be compell'd at his own Charge, to ſerve the King in perſon.* To prove this, I can vouch Authorities from *Common Law*, *Statutes*, and *Records*, which for brevity I will not quote at large, but (leſt any man ſhould doubt hereof) will only point where they may be found. For *Common Law*, ſee 7 *H.* 4. *Brook Tenures* 44 & 73. *Fitzh.* Protection 100. *Cook* 7 *Rep.* 7. *b. Calvin's* Caſe 2 *Rolls Title Impoſition* 165. &c. 1 *Inſt.* 69. *b. in fine.* 2 *Inſt.* 528.

For *Statute-Laws*, ſee (among many others) 1 *Ed.* 3. *cap.* 5. 4 *H.* 4. *cap.* 13. 11 *H.* 7. *cap.* 1. 11 *H.* 7. *cap.* 18. 14 *Car.* 2. *cap.* 3. *in principio.*

For *Records*, (among many others that I have ſeen) I will crave leave to vouch two for *Land-ſervice.*

* The Firſt is 14 *Johannis Regis*, where (upon an imminent *Freneh Invaſion*) King *John* iſſues out Writs, in which he ſummons all his Subjects, *High* and *Low*, to repair forthwith to *Dover*, *Ad Defendendum Caput noſtrum* (ſaith the Record) *& Capita ſua & terram* Angliæ, *& quod nullus remaneat qui Arma portare poſſit, ſub nomine* * *Culvertagii, & perpetuæ Servitutis*, &c.

* Math. Paris 234. Math. Weſt. 92.

* Baſe Cowardiſe, or Turntail; ſo the Gloſſaries.

The other is upon a *French Invaſion* too, deſign'd

 againſt

againſt this Kingdom, in 26 *Edw.* 3. The which being a * Record ſo appoſite to my purpoſe, I ſhall recite ſomewhat more at large.

* Rot. *Franciæ, Anno* 26. Ed. 3. *Memb.* 5.

Rex dilecto conſanguineo & fideli ſuo Henrico *Duci* Lancaſtriæ. *ſalutem Quia Adverſarii noſtri* Franciæ *Nos, & Regnum noſtrum* Angliæ *invadere machinantes, ad nos & Dominum noſtrum & totam Nationem Anglicanam pro viribus deſtruend. Nos conſiderantes* Omnes Incolas dicti Regni cujuſcunque conditionis extiterint, cum verſetur commune periculum teneri de jure pro Patria pugnare, & eam contra Hoſtiles Aggreſſus defenſare. -- *vobis mandamus quod omnes homines defenſabiles, tam Milites & Armigeros, quam alios quoſcunq; de dicto Ducatu cujuſcunq; ſtatus ſeu conditiones fuerint arraiari, & quemlibet eorum juxta ſtatum & facultates ſuas, Equitaturis & Armis competentibus muniri*, &c.

The like Proviſions alſo hath the Law made for *Sea ſervices*. And therefore in Caſe of *Imminent Invaſion*, the Kings of *England* have frequently Commanded, not only their Admirals, but the *Warden* and *Barons* of the *Cinqueports*, and others, to Arreſt *Ships* of War, or other *Veſſels* of Merchants, and to *Impreſs* and *Provide Maſters* of *Ships*, *Seamen*, *Arms*, and all other Neceſſary *Ship-tackle*, for repreſſion of the *Common Danger*. I ſhall not tire my Reader with *Preſidents*, but ſhall rather chooſe to refer him to Mr. *Prynne*'s Animadverſions upon the Lord *Cook*'s 4th *Inſtitutes*, Fol. 127, 128. where he will finde quoted at leaſt a *Sack-full* of *Records*, to that purpoſe.

I ſhall decline alſo here to enlarge upon ſundry great *Regalities* and *Flowers* of the *Crown*, given purpoſely by the *Law* for the *Defence* of the *Realm* in times of *Neceſſity* and *Danger*, (As among many others) (*a*) *Wrecks* of the Sea, (*b*) *Treaſure Trove*, (*c*) *Mines of Gold and Silver*, The *Grand* and *Ancient*

(*a*) Cook's 2 *Inſt.* 167. (*b*) Cook's 11 *Rep.* 91. *b.* (*c*) Plowden 315. *In caſe of Mines.*

Ancient (*d*) *Customs*, and heretofore (*e*) *Wardships*, and the *Dependances* thereupon. (though by a late (*f*) *Statute*, it's true, now aboliſhed, yet by the very ſame (*f*) *Statute* Liberally compenſated). Neither ſhall I inſiſt upon that vaſt Revenue of *Tonnage* and (*g*) *Poundage*, which was at firſt, and hath been all along, and is now ſtill granted for the *Defence* of the *Realm*, and *ſafeguard* of the *Seas* in time of *Neceſſity* and *Invaſion*; and ſo *in terminis* is expreſt to be, in thoſe (*h*) Statute-Laws whereby it hath been given, and particularly in the (*i*) Statute of 12 of his Majeſty that now is, and accordingly recognized ſometimes in the *Royal* (*k*) *Declarations* themſelves. I ſhall onely obſerve, that the *Law*, in all probability, hath made theſe mighty *proviſions* which I have recited, that the *Crown* might have no pretence upon any Occaſion whatſoever, to alter the Subjects *Property* without his *free Conſent*; or at leaſtwiſe theſe involuntary *Phlebotomies* to be forborn, except where the very *Life* of the *Body politique*, can by no other *Applications* be preſerved.

(*d*) Davis *Rep.* 9. *b. Caſe de Cuſtomes.*
(*e*) Cook's 1 *Inſt.* 75. *b.* 35 H. 6. 41. *a.* 14 Ed. 3. *Parl.* 2. *cap.* 1. 7 Ed. 1. *ſtat de Mor. main.*
(*f*) 12 *Car.* 2. *cap.* 24.
(*g*) Cooks 4 *Inſt.* fol. 32, & 33. Ruſh. *Collect.* 628.
(*h*) 1 Jacobi *cap. ult.*
(*i*) 12 Car. 2. *cap.* 4.
(*k*) Ruſhworths *Collect. in the Appendix* fol. 4 & 10. *Declaration of K.* Charles *the firſt.*

I ſhall draw towards a concluſion of this Section, with a *Caſe* of very recent *Memory*, and of ſingular *Notoriety*, throughout the whole Kingdom; I mean that of the * *Conflagration* of our Ships by the *Dutch*, not many Years paſt in the River of *Chatham*. There prevail'd at that time an univerſal Jealouſie among the people, that upon this Occaſion ſome ſuddain *Stop* might be put upon the *Exchequer*; and thereupon the *Bankers* were exerciſed with reſtleſs *Sollicitations* for the ſpeedy Payment of their *Debts*. The King for the ſedation of theſe Fears and Apprehenſions, is adviſed (*And to the Eternal Honour of the Perſons who gave the Advice, I write it*) to iſſue forthwith his * *Declaration*, to preſerve inviolable the courſe of

* June 1667.

* *See the Declaration at the end of this Treatiſe.*

Payments in the *Exchequer*; which was accordingly done. Now let's ſee what were the grounds of this Declaration. Why truly they are expreſt there to be, Firſt, *Leſt the Credit of the Bankers (who had been ſo uſeful to the King) might be weakned.* Secondly, *Leſt the King's Securities might be undervalued.* Laſtly, *Leſt in conſequence the Publick Safety might be endangered.* Now all that I ſhall ſay is this; That (of what value in *Reaſon* of *State* it may be, I know not, but) to men of vulgar *Negotiation* it ſeems a *Riddle*, and no ſmall Myſterie, that theſe *Conſiderations* which at that time appear'd to have been of ſo *Politique* and *Valuable Regard* (as in truth they were) within the ſpace of two or three Years, upon a like Occaſion, ſhould be thought by this *Adviſor* clearly *Obſolete*, and altogether void of *Prudence*, And the *Credits of the Bankers, Royal Securities, and the Publick Safety ſo little by him conſulted.* Idem manens idem, ſemper facit idem.

(*l*) *Cabala* of Letters, *Fol.* 43.

In fine (as the Lord *Chancellor* (*l*) *Bacon* tells us) *The People of this Kingdom love the Laws thereof, and nothing will oblige them more than a confidence of the free enjoying of them. What the Nobles of this Land upon an Occaſion once ſaid with one Voice in Parliament.* [(*m*) *Nolumus Leges Angliæ mutari*], **We will not have the Laws of England Altered,** *is Imprinted upon the Hearts of all* Engliſh Men, *who take themſelves to have as good a Title to their Laws, as to the common Ayr they breath in.* And one of the beſt * *Kings*, perhaps, that ever was, once told his *Parliament*, his *Maxime* was this, **That the Kings Prerogative is to Defend the Peoples Liberties, And that the Peoples Libertie, ſtrengthens the Kings Prerogative.** For if the Foundations be deſtroyed, I am ſure the *Pinnacles* are not out of Danger.

(*m*) *Stat. de Merton in* Cokes 2 Inſt. Fol. 96, 97. &c.

* K. *Charles* the 1. Upon his Signing the *Petition of Right*. See *Foultons* Statutes in 3 *Caroli* Primi.

And

And therefore Sir *Walter Rawleigh* (a Man of no Vulgar Obſervations) tells us a great Thing, and in no wiſe to be neglected, which is; *That the Kings of* England *have evermore ſuſtained more loſs by one Rebellion, than by a hundred years Obſervance of* Magna Charta. *For therein* (continues he) *our Kings have been forc'd to compound with Rogues and Rebels, and to pardon them; yea the State of the King, Monarchy, and Nobility have been endangered by them.* * *His Prerogative of Parliament*, circa Principium.

I have at length diſcharged my ſelf of all the Grand and *Coloſſus* Objections in *Law* of this *Caſe* (unleſs that of Uſury be accounted in that number, which I ſhall conſider in the following Section) but in how tolerable meaſure I have done it, that I muſt leave to the *Juſtice* of my intelligent and impartial Reader. But if the ſaid *Anſwers*, upon wiſe and honeſt examinations, prove ſubſtantial and effective (as I have no great Reaſon to doubt but they will) *then* I dare affirm, that this *audacious Councel of Stopping the Exchequer* hath no farther ſupport by the *Laws of England, &c*, but muſt of Neceſſity fall to the ground.

How this Caſe then ſtands in point of Common, Statute, Civil Laws, as alſo of the Records, and other Memoires of this Kingdom, we have ſeen in the preceding Sections. How it ſtands in point of Politie, Humanity, and Common-Reaſon, comes in the next place to be conſidered.

SECT.

SECT. IX.

That this Councel is contrary to the Polities *that have been practiſed heretofore by the Wiſeſt Forreign States of the World, in far greater* Exigences *than Ours. The Objection (of Princes not repaying Money lent them by their Subjects, to keep them in better Obedience) Anſwered. The inconvenience that hapned at* Rome *upon an Impeachment of the* Bankers *and* Uſurers. *The Objection of* Uſury *againſt the* Bankers, *in our Caſe, conſidered, and anſwered. That Perſons concern'd in the Stop of the* Exchequer, *will be Loſers by loſs of Opportunities for Bargains*, &c. *In this Interval.*

ALL men agree that *Rome* (whether *Monarchical* or *Republique*) was a *State* founded upon the choiſeſt *Polities* that ever were practiſed in the World. And, (as (*a*) *Florus* ſaith) *he that Reads their Atchievments, contemplates not the Geſts and Actions of one ſingle People, but even of all Mankind.* Let us then conſider, what Expedients this ſo prudent a Nation Exerciſed in Caſes of like Nature.

(*a*) *In Prooemio ad* Hiſtoriam.

It is plain, this *State* was never under a ſtreighter Dureſs or Pinch, than after their diſmal Defeat at the Battail of *Cannæ*; for then had *Hannibal* broke into *Italy* like a *Deluge* of the Sea, bearing down

down all before him; and at length this *Tempeſt* of War had begirt the very Walls even of *Rome*, with his Triumphant *Army*; and which was yet worſe, the Roman *Treaſury* was totally exhauſt.

In this Extremity *Levinus* and *Marcellus* the Conſuls declare forthwith by *Edict*, That each private Perſon of ſuch an Eſtate (and ſo others proportionably) ſhould furniſh out a Souldier at their own charge for Thirty Days. *Ad id Edictum*, ſaith (b) Livy, *tantus fremitus hominum, tantaq; Indignatio fuit, ut magis Dux, quam materia Seditionis, deeſſet.* **Upon this Edict ſo hot was the rage and petulancy of the People, that there wanted nothing but a Leader, to have put all into a Combuſtion:** The *Commonalty crying out that they had now for many Years been loaded with* Tributes, *that their* Lands *lay* Freſh *and* Devaſtated; *and that they could not by any force be compel'd to give that, which they had not to give: And this and much more they ſpake, not in Corners, but even in the* Market-place, *and in the hearing of the very* Conſuls *themſelves.* In ſo great an *Agony* of the *Body Politique*, the *Lords* of the *Senate* Aſſembled, to conſult how they might with more ſecurity Levy *Money*, and ſtring themſelves afreſh with new *Sinews* of *War*: after many temerarious Courſes propoſed, and rejected, they thus reaſoned, as (c) *Livy* and *Florus* relate, amongſt themſelves, *Omne Aurum*, ſay they, *Argentum, Æs ſignatum, ad Triumviros Menſarios deferamus; nullo ante Senatuſconſulto facto, ut voluntaria Oblatio*, &c. **Let us our ſelves that be Senators firſt bring into the publique Treaſury all our Gold, Silver, and Money, and this too without any formal Decree, that ſo this voluntary Oblation of ours may excite an Emulation of ſupplying the Common-**

(b) *Livii* Lib. 26.

(c) *Livii* Lib. 26. *Flori*, Lib. 2.

wealth, first in those of the Equestrian Order, and then of the Commonalty. In pursuance of this proposal, the Lords of the *Senate* brought in all their *Treasure* accordingly: Now see what the consequence hereof was. *Hereupon* (say the same (*d*) Historians) *the Knights and Gentlemen followed the Example of the Senators, and the Commoners that of the Knights and Gentlemen; And the Contributions were so large, and the Conflicts so sharp for priority of Registring Names, that the Exchequer had hardly Books and Clerks enough to enter the particulars.* (*e*) *Bodine* commenting upon this prosperous Councel, hath these very words. *Cum Annibal Italiam quateret. Urbemque ipsum obsideret, Senatus diruto ærario nova Tributa Subditis aut Socis imperari noluit,* **Nihil enim præmentibus hostibus tam periculosum.** When *Hannibal* had made *Italy* to Tremble, and had Besieged *Rome* it self, the *Senate*, though the Publick Treasure were spent, would not impose new Tributes upon their Subjects and Colleagues; **For nothing,** saith he, **can be more hazardous upon an instant Impression of an Enemy.** Neither is it to be forgotten, that the same (*f*) Historians add, that *Parta Victoria*, &c. **That after Victory obtain'd, and the** Carthaginians **discomfited, the Senate had decreed the Repayment of every Lenders Money justly and Honourably, which was Executed accordingly.**

(*d*) *Livii* lib. 26. *Flori*, lib. 2.

(*e*) *Bodin de republ. lib. 6. ca. 2. de Æraio.*

(*f*) *Livii* lib. 26. & lib. 27. *Bodin.* lib. 6. cap. 2.

The Learned (*g*) *Boterus* Relates a *Story* very apposite to this purpose. [*Ladislaus Dux* Neopolitanus *victus*, (saith he) *fugatusque ab hoste*, &c.] *Ladislaus* Duke of *Naples* being vanquish'd of the Enemy flies to *Naples*, and there consults about raising *Money* for the reinforcing of his *Army*, and had resolved (by the *Advice* of *Persons more factious than*

(*g*) *Boterus de politia illustrium, &c. lib. 7. cap. 3.*

than Wiſe, ſaith that Author) to effect this, by Impoſition of new and unuſual *Taxes*: this being intimated to one *Gorellus*, (a perſon of ſingular Prudence and Gravity) he forthwith repairs to the Duke, and beſpeaks him after this manner: *I am afraid* (GREAT SIR) *that whilſt you are ſollicitous of repelling the Enemy, you take no care of* falling into the hatred and Malevolence of your own Subjects, by this impoſition of a new Tribute: *I beſeech you Sir, what can your greateſt Enemies breath after with a warmer zeal, than that you ſhould follow a Councel,* that will aſſuredly diſpoil you of the Love and fidelity of your People: *Baniſh then,* GREAT SIR, *out of your Royal Breaſt ſo pernicious a Determination; for that Money which you want, my ſelf with ſome other of your ſervants (who are to run the ſame Adventures of Fortune with your Majeſty) will preſently ſupply you.* And taking a Pen in his hand, he put down what each Perſon (*himſelf principally*) was to pay, and the Money was in a moment brought in. *Prudentiſſimum ſane pro re & tempore*, &c. ſaith *Boterus*. A moſt prudent Councel for the matter and occaſion, given by Gorellus, and approved by the Duke, by which, ſaith he, the wiles of the Enemy were prevented, and the Popular Quiet and Contentment conſulted.

Now (becauſe Contraries appear beſt by Oppoſition) I will produce one Inſtance or two, a little Diverſe from *Theſe*. *Auguſtus Cæſar* had ſuddain *News* brought him of a vaſt *Army* in the raiſing by *Mark Anthony*, to encounter with him; The *Prize* to be fought for, was no leſs than the *Empire* of the World. *Auguſtus* (being young, and inſtigated by evil Counſels) ſqueezes the People with *Taxes* towards

towards the ſupport of this War. The people hereupon began to *Mutiny*, *Inſomuch that* (as * *Plutarch* Reports) *the Wiſeſt men of that Time took it for granted, that if* Antony *in this Conjuncture had approach'd nearer with his Army, the* Romans *would have aſſuredly revolted, and delivered up* Cæſar *into the hands of his Enemies.* But, as he ſaith, the imprudent Delays of *Antony* gave time to the people of concocting their *Diſcontents*, and of the *Sedation* of their Paſſions. Neither is it to be neglected, that this *Illuſtrious Perſon*, after the defeat of *Antony*, and his own *Acceſs* to the *Empire*, took ſuch warning by this hazardous Miſtake, that ever after he abandoned all *Councels* of this Nature, And unto that degree, that in the laſt twenty years of his Reign, he laid out upon the Publick Benefits and *Emoluments* of the *Commonwealth* (as (*a* *Suetonius* Writes) little leſs than [*Quater decies Millies* * *Seſtertium*,] That is, *Eleven Millions eighty thouſand five hundred thirty three Pounds ſix Shillings eight Pence Sterling: Beſides his two paternal Patrimonies, and other his Inheritances.* * *Others report, thirty five Millions of Gold, beſides the two aforeſaid Patrimonies.*

And the Learned * Sir *Henry Savile*, imputes the immediate Cauſe of the Ruine of the Emperour *Nero*, to his *unſeaſonable Exactions of Moneys*, upon the firſt Tidings of *Galba*'s Revolt. *And therefore*, (ſaith he) *a Wiſe Prince will leaſt grieve the Subject with new Impoſitions in time of Civil and Publick Dangers, as ſeeming then* (adds he) *in ſome ſort to ſtand to his Peoples Courteſie; and having beſide Occaſion at that time, to employ their Bodies in his Service.*

Many other Examples of the like Nature I could produce out of Hiſtory and Policy, which yet (for brevity ſake) I forbear to do, and haſten to

* In Vita *Antonii.*

(*a*) Vita Octavii, *cap.* ultimo.

*See for this valuation Budæus *de Aſſe*. Hackwel's *Apology*, and Savil's *Notes on* Tacitus *Hiſtory*, Lib. 1. cap. 6.

* Life of *Auguſtus* bound up with *Plutarchs* Lives.

* *In his Preface to his Notes on* Tacitus.

to Anſwer an Objection, *viz.* That as *certain Authors* affirm, ſome *Princes* have by great *Uſuries Decoyed* vaſt ſums of their Subjects Moneys into their *Exchequers*, and forborn afterwards to repay them, on purpoſe to Oblige their People to a *ſtricter Obedience*, and *Fidelity to the Crown*; And this *Artifice* (as *Bodine* Reports) was recommended as a ſubtile Project, to the *French Kings*, and accordingly practiſed by them. *Object.*

Sol. I ſhall anſwer this *Objection* in the very words of the ſame * *Bodine*, in another place. [*Hæc quidem tolerabilia viderentur*, (ſaith he) *ſi quod Regibus noſtris perſuaſum erat, Civitates, obſequio & fide majore, acceptis mutuo pecuniis, devincire potuiſſent; ſed nullis temporibus graviores in Gallia tumultus, aut plures Civitatum defectiones, extiterunt.*] *Theſe Councels had been tolerable*, (ſaith he) *if as theſe State-Mountebanks would perſwade our Kings, the People by this Deteiner of their Money, would have been contain'd in better Obedience*; but Alaſs! *there were never more dangerous Tumults in* France, *or more frequent Revolts of Cities known, than in thoſe times.* * De repub. *Lib.* 6. *cap.* 2.

All *States* have tolerated *Uſuries* in one kinde, or Rate, or other; *And it is impoſſible* (ſaith the Lord * *Bacon*) *to conceive the Inconveniencies that will enſue, not onely to* Merchants, *but to all other perſons, if the Borrowing of Moneys ſhould be cramp'd, and diſcouraged:* Therefore conſideration for Moneys lent, hath been entertain'd (as the *Scripture* ſaith of the *Judaical Divorces*) for the *Hardneſs of Mens Hearts*. And the *Endeavours* of aboliſhing thereof have proved ſometimes *Inconvenient, and Dangerous to the States* where it hath been attempted. To prove which, I ſhall produce but one Example reported by *Cornelius* * *Tacitus*, who tells us, that in the Reign of *Tiberius Cæſar* [*Magna vis accuſa-* * Eſſays.

* Annalium, *Lib.* 6.

torum

torum in eos irrupit qui pecunias fœnore auctitabant, &c.] That a great *Rabble of Informers* roſe up againſt thoſe Perſons which took exceſſive *Uſury*, and thereupon every man calling in his *Debts*, on a ſuddain enſued a great Want and Scarcity of Money, and an *Univerſal Diſcontent*, and the Aſpect of Affairs ſeem'd not very propitious; which being perceived by that *prudent Emperour*, he forthwith caus'd an Hundred Millions of * *Seſterces* of his own, to be put into the *Bank*, to be lent to all men that had Occaſion, for three Years without *Intereſt*; and thereupon all things became calm and ſedate again.

* 791466 *l.* 13 *s.* 4 *d.* Sterling.

Having ſaid this, I ſhall now with more advantage conſider an *Objection*, which ſome few men I perceive are very *fond* on, and do not a little *glory* therein.

Object. Theſe *Bankers* (ſay they) are *Extortioners* and *Uſurers*, and have taken greater *Intereſt* from the King for their Moneys to him lent, than the * *Statute-Law* allows; and thereupon by Force of that Statute they have *forfeited* all the Money they lent, not onely to the Ruine of *Themſelves*, but alſo of their *Creditors*, who intruſted them, *&c.*

* 12 *Car.* 2. *cap.* 13.

Anſw. In Anſwer hereunto, Firſt, I muſt obſerve, that this Objection is built upon *common Fames* and *Reports*, and not upon legal *Convictions*, as the *Law* of *England* requires in this very Caſe, which ſaith, * *That Unlawful Uſury ſhall never be preſum'd, unleſs it be expreſly found by the Verdict of twelve Men*, which hath not yet been done in our Caſe. And if the *Common Fame* of Crimes ſhall become forthwith a *Conviction* of thoſe Crimes, it is twenty to one but other men may be Sufferers in ſuch an *Eſtabliſhment*, as well as the *Bankers*, &c.

* Co. 8. Rep. 16. *b.* Loveday's *Caſe*. Bridgmans *Rep.* 112. Web *and* Jucks *v.* Worſield.

But ſuppoſing (which yet I do not admit till it be proved) that theſe Men have received ſomewhat more than ſix *per Cent.* by way of *Bounty* and *Gratuity*

tuity from the King, for the Loans of their Money to his Majeſty; yet (under favour) this Objection will ſtill receive a ſound and undeniable Anſwer.

And for that, I ſhall not inſiſt, that *Other* men have been *Offenders* in the very ſame nature, and for the ſame Reaſons, as well as the *Bankers*. Nor ſhall I conſider how agreable it will be either to *common Humanity* or *Juſtice*, that this Offence (if yet ſo it be) of the *Bankers* ſhall, like *Original Sin*, cleave to their *Creditors*, or that ſo many thouſand *Widows*, *Orphans*, *Babes*, *Aged*, *Sufferers for Loyalty*, *Cripples*, *Blinde*, *Diſtracted*, &c. (for of ſuch miſerable perſons is this Ragged *Regiment* for the moſt part compoſed) which were not in the leaſt *Privy* or *Conſenting* to this Crime, ſhall yet be *All* mingled together, without the leaſt *diſtinction*, in one Common Ruine. Nor ſhall I enlarge upon the Advantages which accrewed to the King in our late *Dutch* Wars, by buying Neceſſaries for the *Navy* with ready Money, and paying off the *Seamen* immediately uppon the Ships coming into *Port*, and this in the time too of a great *Plague*, and other National *Exigences*; which (if we may ſpeak a Truth) could not have been ſo readily effected without theſe *Mens* Supplies. Nor Laſtly, ſhall I debate how far this *Nation* may be concern'd in point of *Honour* and *Credit*, if men ſhall be invited and encouraged to lend Money by *Privy-Seal*, and *Publick Orders of Council*, with the Allurements of a little more than ſix *per Cent.* and yet after all, to take advantage thereof by way of *Forfeiture*; Inaſmuch as in unlawful Compacts and Bargains all the Parties contrahent are uſually conceived to be *Criminis Participes*, or Sharers in the Offence. Theſe are *Conſiderations* which I do not altogether abandon, and that (in ſo paſſionate and *extenſive* a *Calamity* as this is) may perhaps deſerve a due Regard,

gard: And I doubt not but many ſober, and true *Engliſhmen*, which are ſollicitous of the *Honour* and *Juſtice* of their *Country*, and that cannot but retain a generous Sympathy for their *Relations* and *fellow-Subjects*, will not ſlightly paſs over them.

But becauſe the ſaid ſevere *Objectors*, will allow nothing to their *Countrymen* in ſo calamitous a Caſe, but that which we call *Summum Jus*, or the extremities of the Law, I ſhall encounter theſe Gentlemen at their own Weapon, and ſhall joyn Iſſue with them in this Caſe upon the point even of their very own *down-right Law*, if that will ſatisfie them; which (for brevity) I ſhall not here argue at large, but ſhall rather chooſe at preſent to propoſe it to their conſideration in theſe Three following *Quæries* (upon which yet when they have well ruminated, I ſuppoſe we ſhall hear no more of this *Objection*).

1. Firſt, *Whether Talleys of Loan ſtruck in the Kings Exchequer, and Orders Regiſtred upon any Branch of his Majeſties Revenue, for Moneys lent to his Majeſty, are not Contracts and Securities, out of the meaning, as well as out of the Letter of the Statute againſt* Uſury? *As alſo, whether the King may not gratifie and reward a Subject upon Loan of Money to what value he pleaſeth, notwithſtanding the Statute of* Uſury; *though one Subject may not do ſo to another Subject?*

2. *Secondly*, Whether when the * *Act* of 22 and 23 of his now Majeſty hath taken Notice of theſe Perſons by the very name of *Bankers*, and as of Men borrowing and *lending great ſums of Money for extraordinary Lucre and Profit (for thoſe are the words of the Act)*, and for that Reaſon charges them and their Creditors with 15 *s.* to the King for every 100 *l.* to them owing: And farther *Enacts* in theſe very Words, *That all Moneys lent to his Majeſty for which above 6 l. per Cent. ſhall be owing*

* Entitled an Act for granting to his Majeſty *a Subſidy for ſupply of his extraordinary Occaſions.*

owing or payable by his Majesty upon the first of May 1671 *either as Interest, Consideration,* Gratuity *or* Otherwise, *shall pay* 15 *s. per Cent. to the King.* Whether (I say) this *Act* hath not plainly and undeniably *dispensed* with, and *control'd* the said *Act* against Usury, so far as it relates to the *Bankers*, and their Creditors, for so much Money as was at *that Time* owing to the *Bankers* by his Majesty? And that *First, because where ever a Statute-Law charges a mans Estate with a sum of Money, that very Law doth always necessarily suppose and admit a legal and durable Right to that Man, in the Estate so charged. Secondly*, because (our * Books say,) *That by the Law of God and Man, no person ought to be punish'd or mulct twice for one and the same Offence*, as the *Bankers* and their Creditors will be, if they be mulct *a second time upon the said Statute of* Usury.

* Co. 8. Rep. 118. *b.* Dr. *Bonham's* Case.

3. *Thirdly* (which some Men call a blow with a *Brown Bill*) *Whether this* Usury (if so it be) *of the Bankers, be not absolutely and undeniably discharged by the late* * *Act of general Pardon of the Twenty fifth of his now Majesty?* for if that happen to be the Case, (as without doubt it doth, and will appear to be so, to any man that shall peruse the said *Act of Pardon*,) then this their mighty *Objection* is clearly out of Doors. For whereas two things are only considerable in the Offence of Usury, (as in all other Offences,) *viz.* The *Reatus* or Guilt, and the *Pœna* or Punishment; An *Act of general Pardon* (say our * Books) expunges and wipes out *both* these Contaminations (as to this World) as if they had never been: And the Party offending, in an Instant becomes thereupon a *Novus Terræ Filius*, or an absolute new born-Creature.

* Entitled *an Act of general Pardon.* See the Act.

* Latches 1 *Rep.* 22. Bostons Case. *Ibid.* 141. Davys's *Case.* Co. 6. Rep. 13 *b. Le Parson de* Isbock's *Case.* All express in the Point.

These are *Notions* I could easily enlarge upon, and if they be questioned, I doubt not (under favour) but to inforce them by undeniable Proof in Law and Reason. I shall now then shut up this *Section* with

with this *Obſervation:* That though the *Exchequer* here be again Opened, (as in good time I hope it will) yet the Perſons therein concern'd will notwithſtanding ſuſtain *Infinite Damage*, in point of irreparable loſs of thoſe Opportunities of advantagious *Bargains, Marriages, and ſundry other particulars, which in this Interval* have been offered unto them.

SECT. X.

That this Councel is contrary to the Common Reaſon *of Mankinde, and in ſome reſpects againſt the Rules of* Humanity. *That it is pernicious to the Credit of his Majeſties* Exchequer *in particular; And may prove* Miſchievous *to the whole* Kingdom *in general. The Caſe between* Philip *the Second of* Spain, *and the* Bankers *of* Genoa, *truly ſtated, and demonſtrated to be eſſentially different from our Caſe.* Campanella's *Advice to King* Philip, *to make ſpeedy Payment of that Debt.*

IT is a *Rule* that hath prevailed among all Nations (as well *Barbarous* as *Civil*) That *Quod Omnes tangit, ab omnibus debet ſupportari.* And again, *Qui ſentit Commodum, ſentire debet & Onus.* **Where the Utility and Peril is common, there the Charge and Contribution ought to be common alſo.** But I doubt, if this *Councel* happen to be weighed in this *Balance*, it will prove light; for as it is plain, that the *Defence* of the

the Kingdom was at that time an *Utility* to the whole; ſo it is as evident that the *Charge* thereof was faſtned upon a *Part*. What is this, but as if the *States* of *Holland* ſhould impoſe the Expence of *Defending* their *Country* from the *Sea*, upon a *parcel* of their *People*? Or (if we may compare great things with ſmall) as if the *Banks* and *Walls* of the great *Level of the Fennes*, ſhould be maintained by a *ſmall* Number of the *Proprietors*? And yet this ſeems to be the preſent *Caſe*; and how far this Proceeding is agreeable to the **Common Reaſon** of *Mankinde*, I leave to the World to Judge.

But this is not all neither; For this Charge is not laid only upon a *Part*, but in great meaſure upon the *moſt Impotent* and *Neceſſitous* part of the Kingdom, and upon many of thoſe *Glorious Worthies which* (maugre all the *Temptations and Menaces of Wicked men*) *preſerved their Virgin-Loyalty Chaſt, and Undeflowered.*

I have obſerved that ſome perſons in *Parliaments* have uſed it as a *Motive* to *ſupply* our *Kings* with *Money*; becauſe, ſay they, *That which you give, is but like a Vapour exhaled by the Sun, which gathereth into a Cloud, and in ſhort time Diſtils again upon the Earth in gentle Dews, and fructifying Showers.* But this *Advice*, what was it, but to draw up the *Tears* of *Orphans* and *Widows*? the *Milk* of *helpleſs Babes*? *the Sweat of the Labourers Brow*? *and the Heart-Bloud of ſeveral poor* Loyaliſts (*among others*) *to fertilitate the Lands of many Perſons which* (*not to ſay worſe*) *wallow in all Affluence and Riches*? Or (if I may uſe a (*a*) *Scripture-Metaphor*) to take two *Legs*, or a piece of an *Ear* of a *Lamb*, which we had *reſcued* out of the *Jaws* of the * *Lyon*, and the * *Wolves*, and give them to the *Rich men* that have many *Flocks* and *Herds*. For nothing is more *Evident*, than that many of thoſe poor Creatures

(*a*) Amos 3. 12. *compar'd with* 2 Sam. 12. 2.

* Cromwel Sequeſtrators, Committee-men, Decimators, &c.

that had but one hundred Pound in all the World, had that All *taken from them towards the* Defence *of the* Kingdom; when many Others that were worth *hundred thouſands*, *expended not a Farthing* at that time. An Advice which hath reduced into *Practice* that * *Barbarity*, which one heretofore did onely wiſh; that hath at one diſmal Blow (as if they had all had but one *Common Neck*) Beheaded ſo many *thouſand* poor innocent Perſons. If yet it be not leſs *Cruelty* ſtill, to take Men off at one ſingle *Stroke*, than to let them *Languiſh*, and *feel* themſelves die! than to bleed out their Souls by Drops! than to let their *Eyes* behold their own *Bread* torn out of the Mouths of their Starving *Wives*, *Children* and *Families!* And now what ſhall I ſay?

* *Suetonius in Vita Caligulæ, cap.* 30.

——— *Quis talia fando*
Temperet à Lacrimis? ———
——— *Pudet hæc Opprobria Nobis*
Et dici potuiſſe, & non potuiſſe refelli?

——— Who can hear
This Tragedy without a Tear?
——— Is't not a ſhame
This ſhould be prov'd, yet none redreſs the Blame?

Now for the *Influences* this *Councel* may have upon his *Majeſty*'s Exchequer, in all likelyhood they cannot prove very *Propitious* and *Benigne*. Few things have been more dear to *Princes* than the *Reputation* and *Glory* of their *Exchequers*: And Queen *Elizabeth* was ſo punctual in this particular, that in her time (*they ſay*) it went for a Proverb, As ſure as Check. For (as a great * Author Writes) *Outward Eſteem and Reputation is the ſame to Great Perſons and Things, which the Skin is to the Fruit, which*

* Lord *Herbert H. S.*

which though it is but a slight and delicate Cover, yet without it, the Fruit will be subject to discolour and Rot. He that hath a minde to contemplate the *Consequentes* of a *discredited Treasury*, let him but consider the Cases of *Henry* the second of *France* Reported by * *Bodine*, and of our King *Henry* the *8th*, by the Lord * *Herbert* (for I would rather they should declare them than I.)

* Bodine *Liv. 2. cap. 4. in fine.*
* *Lord* Herbert's Hen. 8. *last leaf but one.*

And as this Advice hath no benevolent aspect upon the *Exchequer* in particular, so (if it be not redrest) it may prove equally mischievous also to the whole *Kingdom* in general. To explain my self herein, I will suppose that some *National Exigence* or *Danger* (which God of his Mercy avert) may possibly hereafter happen unto this *State*. It is plain, this *Danger* cannot be repell'd or encounter'd without *Men*; these *Men* cannot be had without *Money*; this *Money* cannot be rais'd (as I have before effectively prov'd in this Discourse) without *Parliament*. I will then farther suppose, that the *Parliament* of that Age doth give unto the King a sum proportionable to the said *Danger*; this sum will yet require a considerable time (as we finde by Experience) in the *Collection* and *returning* thereof; and still the *Danger* is urgent, and presseth forward: So then there remains no other Expedient, for present supply in the said Exigence, but to *Borrow Money* from the *Subject* upon the *Credit* of the *Exchequer*. (Hereupon in an instant come the *former Credits and Justice* of the *Exchequer* into debate, and, let us flatter our selves as we please, Men will be satisfied in their * *Securities* before they part with their Money) I will *appeal* to any man then, whether if a Loan of Money should be desired from him in such an *Exigence*, he would not naturally be apt to glide into such *Discourse* within himself: *That which has been done, may be done*

* *The Advisor perhaps design'd no more* Borrowing, *but* Taking.

again: Other men had their Moneys ſecured by Royal Declarations, Great Seals, Common Law, Acts of Parliament; and yet after all theſe, the Faith of the Exchequer *broken, and the Lenders (with many thouſand Families under them concern'd) irreparably Ruin'd and Beggar'd. If they can* (continues he) *give me Securities more ſacred and binding than theſe, I will adventure once more to lend; otherwiſe,* &c. And in this part (in this part, I ſay, Reader) lurks the *pernicious* and *Mortal Venome* of this *Councel*; for hereby the *Royal Securities* (which next to thoſe of the great *King of Kings*, ought to contain the higheſt *Sanctimony* and *Aſſurance*) are *vilified*, and *prophaned*, and rendred *cheap* in the Eyes of the *Populace*; and conſequently the *Defence* and *Preſervation* of the whole *Kingdom* in time of *Danger* and *Neceſſity*, thereupon debilitated and undermined: And I may well cry out of this Advice, as *Laocoon* did of the deſtructive Stratagem of the *Trojan-Horſe*.

* Virgil's Æneids, *Lib.* 2.

* *Aut hoc incluſi* Ligno *occultantur* Achivi,
Aut hæc in noſtros fabricata eſt Machina muros.
Inſpectura domos, venturaq; deſuper Urbi,
Aut aliquis latet Error, Equo *ne credite* Teucri.

Now (becauſe *Black* is beſt diſtinguiſhed by the oppoſition of *White*) I will produce one ſhort *Inſtance* (and I ſhall not go many years back to finde it) where the *Credit* and *Faith* of his Majeſty's *Exchequer* was of infinite *Advantage* to the *whole Realm of England*. We all know, that in *June* 65. (*under the Conduct and Courage of that gallant and thrice Renowned Prince* JAMES DUKE OF YORK) this Nation obtained a Naval Victory againſt the *Dutch*, for Glory and Advantage not to be parallel'd in all our Hiſtories. The * *Parliament*, it's

* By Act of 16 & 17 *Car.* 2. *cap.* 1.

it's true, before, had given his Majeſty a ſum of Money proportionable to ſo great an Atchievement; but yet they had limited the ſaid Sum to be raiſed by *twelve quarterly Payments*, and no ſooner; the firſt payment to begin from the 25*th* of *Dec.* 64. Now it is plain the ſaid *Victory* could never have been obtained without ſetting forth a *Fleet*; and it is as plain, this *Fleet* could not have been ſet forth without *Money*; and it is yet plainer, that this *Fleet* could never have been ſet forth with that *Money*, which (by the expreſs limitation of the ſaid *Parliament*) was to be *ſix and thirty Moneths* in the Collecting and Paying. It will be worth our enquiry then, to know how the ſaid *Victorious Fleet* came to be ſet forth. Why truly the Anſwer is very ready and obvious: *The Fleet was ſet forth with the Money which ſundry Private* * *Perſons lent unto his Majeſty upon the* **Inviolable, Sacred and Divine Credit of his Exchequer**: This *Credit* was the *Primum mobile* which put all thoſe leſſer Wheels in motion. And now Behold a *Miracle* in an inſtant wrought by the Vertue and *Sanctimony* of the ſaid *Royal Credit!* **The Dutch were diſcomfited, their Fleet ruined, and the ſaid glorious Victory by our Nation obtain'd, before the very firſt quarterly Payment of the ſaid Money, given by the Parliament, was Collected and brought in!** Of ſuch Moment and Importance to the whole Kingdom was the *Faith* of his Majeſty's *Exchequer* in thoſe days! Neither is it altogether to be forgotten, that *One particular Perſon* ſupplied his Majeſty with a moity or one half of the Money that was at that time expended in the paying and equipping of the ſaid *Fleet*. Not to ſay any any thing that He *proceeded* in Loans of the ſame nature, during the *Fury* of the moſt diſmal *Plague* that this *Nation* ever felt;

* *Thoſe againſt whom ſome few men now ſo much Exclaim.*

which Perſon notwithſtanding is now the deepeſt ſharer in the Calamity of the preſent *Stop* of the *Exchequer*; and under him, his numerous *Creditors*.

I ſhall no farther purſue the Peſtilence of this *Councel* in this particular (it being ſo obvious to the meaneſt Underſtanding) but ſhall now State the *Caſe* between *Philip* the Second of *Spain*, and the **Bankers of Genoa**, as I have extracted it out of the beſt * *Authors* I could find, which treat upon that Subject.

Thuani *Hiſt.* Lib. 61. *Anno Dom.* 1575. Metarani *Hiſt. Belgica* Lib. 5. *Bodine de Repu.* Lib. 6 Campanella's *Spaniſh Monarchy*, c. 21. Heylin's *Coſmography in* Genoa. Laſſel's *Voyage into* Italy, 1 *Part* pa. 99. *cum multis aliis.*

Charles the Fifth, Emperour of *Germany*, had for a long ſeaſon revolved in his mind, how he might render the *State* of *Genoa* obſequious, and dependant upon himſelf; and this he did (among other Reaſons) that he might, as occaſion ſerved, with the greater facility Tranſport his Armies out of *Spain*, thorough this Territory into *Italy*. In Order to this, ſundry *Experiments* had he made, which yet by the *Jealouſies* of that *People*, were always rendred *Improſperous*. *Charles* (being as he was, a Prince of prodigious *Subtility*) falls upon new *Councels*; he conſidered he had to do with a *People* that dealt much in *Money*, and were generally great *Bankers*, and *Merchants*; and therefore concluded, that if by extraordinary *Uſuries* he could allure their *Money* into his *Exchequer*, he ſhould then be in poſſeſſion of the beſt *Hoſtages* they could give him for their *Fidelity* and *Obſervance*. This *Emperor* dying, *Philip* his Son, after his *Fathers* Example (to make the *Birds* more Confident, and leſs Jealous of the Snare) proceeds for ſome time to feed theſe unhappy *Money-Changers* with exceſſive *Uſury*, till by this fine *Dexterity* he had conveyed into his hands no leſs than Four hundred and twenty *Dutch Tun of Gold*; ſome ſay Eleven, others *Eighteen Millions of Gold*; and then ſecures this Debt to them very fairly upon the Tributes of *Spain*, and the

Indies.

Indies. The ſilly *Birds* were now very ſecure, and Sate fair, and there wanted nothing but the drawing the Net. Thereupon King *Philip* (being exhauſted with his *Low-Country Wars*, and withal) ſenſible of the *Weight* of ſo ponderous a *Debt*, takes occaſion at firſt, to cavil at ſome little *Miſreckonings* in the *Accounts*, and a while after inſiſted that he had heretofore paid them more *Intereſt-Money* than they ought to have received; and therefore (quoth he) that *Overplus* ought, in all Reaſon, to be deducted out of the *Principal*: and thereupon by *Publique* Edict (taking the *Opportunity* likewiſe of ſome *Civil Diſcords*, which at that time raged among them) forthwith ſtops their *Penſions*, iſſuable out of the ſaid *Tributes*. And then to *fortifie* this *Act*, by ſecret *Combination* with the *Pope* (to render the Action more ſpecious) procures a *Bull* from his *Holineſs* to confirm all that he had done: however, for ſo much *Principal* Money as was afterward agreed to be due (which in the Year 1600 I find was One *Milion* and half of *Gold*) the *Crown* of *Spain* hath ever ſince to this day, *Juſtly* and *Honourably* ſatisfied the Intereſt.

This is the true *State of this Caſe* (according to my *Diſcovery* thereof). Now it will be evident to any perſon that ſhall *compare* theſe *two Caſes* together, that they differ each from other in ſundry *Eſſential Circumſtances*. For

Firſt, this *Severity* of King *Philip*, was not *exerted* upon **Children** and **Subjects**, but upon a *Forreign State*, of which *Spain* had then juſt cauſes of *Apprehenſion* and *Jealouſie*; and ſo the Action well enough conſiſtent with the *Rules* of *Policy*.

Secondly, the *Envy* and *Enormity* of this *Feat*, was by a curious *Legerdemain juggled* upon his *Holineſs*, and King *Philip* to all outward appearance rendred innocent thereof: *This Debt* (*ſaith* Peter

(d) Heylin's Cosmography.

(e) Metarani Hist. Belg. Lib. 5.

(f) Bodin de Rep. Lib. 6. cap. 2.

(d) Heylin) *was cut off by the* Pope's *Authority, that ſo King* Philip *might be obliged to that See. Hoc* debitum (ſaith (e) *Metaranus*) *per Pontificis decretum propter ingentes Uſuras, fuit diminutum, & moderatum. This* Debt *by the* Pope's *Decree was moderated, upon pretence of exceſſive* Uſury. And (f) *Bodine* Drolling *facetiouſly* upon the *Proceeding*, [Sed *riſu digna res eſt*, (ſaith he), *quod non modo Genuenſibus, verum etiam ipſi Philippo*, &c.] *It was thought very pleaſant, and* Ridicule (ſaith he) *that not only the* Genoeſes, *but* Philip *alſo ſhould be* Interdicted; He, *becauſe he took Money to* Uſury; They, *becauſe they lent it.* However they were *Both* (this being done only by *Compact*, and to give the better grace to this neat *Emunctare* or *Wipe*) in a little time Abſolved again.

Thirdly, in this Caſe the *Intereſt-Money* was, and is *punctually ſatisfied, and I wiſh I could affirm as much in Ours.*

Fourthly, I do not find that this *Debt* of the *Genoeſes* was ſecured unto them, by any *Act* of the *Cortes*, or *Parliament* of *Spain*; and ſo the *Common Faith* of that *Nation* inviolate. But in our *Caſe*, our *Debt* is ſecured to the *Bankers*, and their *Aſſignees*, by *National Obligation*, as I have, I think, above moſt evidently proved.

(g) Campanella Span. Mon. Cap. 21

Laſtly, (g) *Campanella* the *Jeſuite* (a man of infinite *Subtilty*, and one that ſeems to be even *anxious*, and eaten up with *zeal* for the *Grandeur* and *Proſperity* of *Spain*, the which he *cultivates* with ſo ſingular a *diligence* in his *Diſcourſe* of that *Monarchy*; This very *Man* (I ſay) doth with all his *vigor*, not only *Adviſe*, but *Importune* King *Philip*, with all *ſpeed* to pay this *Debt* to the *Genoeſes*: *Leſt*, ſaith he, (among other Reaſons there given) *if there ſhould happen any Riſing in* Italy *to the prejudice of that King, the* Genoan *Banners might march alſo along with them for Company.*

So

So that then **Upon the Whole Matter**, I ſhall not much doubt to Marſhal our preſent *Caſe* of the **Bankers**, &c. among the *Anomala*, or *Caſes* without Preſident; And may well uſe the words of the *Roman* * *Cryers*, (when they publiſh'd their *Ludi ſæculares*, or Sports ſhew'd but once in a *Century*, or *Age*), *Venite, & videte, quod nemo mortalium antequam vidit, neque poſtea viſurus eſt. Come away (good People) and behold that which no Mortal man hath ſeen before, or ſhall I ſuppoſe, ever (here) ſee again.*

* Godwin's *Roman Antiquities*, lib. 2. Sect. 3. Cap. 8.

The

The Concluſion.

I Shall (I hope *Auſpiciouſly*) take the riſe of my *Concluſion* from two or three memorable *Records*. The one relating to *Widows* and *Orphans*, the other to thoſe *Worthies* who with their *Lives* and *Fortunes* had many Years ago, *propugn'd* the *Rights* of the *Engliſh Crown*.

That which concerns the former, I ſhall for the Excellency ~~thereof~~ (ſo far as concerns my purpoſe) Tranſcribe *Verbatim*.

* *Die Veneris proximo ante Feſtum beati* Edwardi, *Anno Regni* Regis Henrici tertii 34, *venit Dominus* Rex *cum ſuo* Concilio *ad* Scaccarium, *& ibidem* **proprio Die**, *præcepit omnibus* Vicecomitibus Angliæ, *tunc ibidem exiſtentibus*, Imprimis, *quod omnibus omnibus obſervarent & manutenerent libertates ſanctæ Eccleſiæ, & ſimiliter manutenerent* **Pupillos, Orphanos, & Viduas**, *& celerem eis Juſticiam* Exhiberent, *&c.* Here we have it Regiſtred to all *Futurity*, *That the glorious King* Henry *the* third, *came in his* own Royal perſon *into his Court of* Exchequer, *environ'd with his Illuſtrious* Councellors, *and there with* his **own Mouth** *gave it in charge to all the* Sheriffs *of* England, *That in the firſt place (next after Holy Church) they ſhould defend the* * **Orphans and Widows, and do unto them ſpeedy Juſtice.**

* Inter Communia termino *Mic.* 35 *Hen.*3. *in Officio Remem. Theſ. in Scac.* Rot.2. *Intus. Præceptum Domini Regis*

* Prov. 29. 14.

In the next place, for the **Loyal Worthies**.

The

The great King *Edward* the *first* did * *grant to his Loyal Subjects*, Gentlemen, Clerks, Souldiers, *and others of* Gaſcoigne, *their Heirs and Succeſſors* [*Per le Reſon de lour ſervices, Et Rents, Terres, & Benifices qil ont perdu per le guerre qe ad eſte entre le Roy de* France, *e Nous*] (ſaith the Record) **In conſideration of their Services, and the loſs of their Eſtates, and Benefices, by reaſon of their Loyalty to him during his Wars with France,** *All the Moneys ariſing out of the Diſmes, lately granted to him by the thrice Holy Father Pope* Boniface *the* 8th. And (the better to ſecure the Performance hereof) *the* King *doth there binde his Heirs and Succeſſors, and all his Goods and Chattels thereto. The* Prince *of* Wales, *and ſome of the* Biſhops *there promiſing, and ſeveral alſo of the* Nobles *there Swearing upon the Holy* Evangeliſts, *that (to their power) they would ſee this Grant accompliſhed.* And by another * *Patent, he aſſignes likewiſe to the ſame Perſons, for the ſame Reaſon, All the Profits of the Religious Aliens within the Realm of* England, *which he had then ſeized into his own hands by reaſon of the French Wars* (Two *Boons* or *Donatives* in thoſe days of no inconſiderable *value.*)

* Pat. 30 *Ed.* 1. Memb. 12. pro Hominibus de Vaſcon. de Decima *R.* conceſſa, eis aſſign.

* *Pat.* 30 *Ed.* 1. Memb. 12. De Exitibus terr. Alieni genarum in *Anglia* aſſign. Hominibus de Vaſcon. per Regem.

Among ſeveral * *Articles* exhibited by the Lords of the Council in the *Parliament* of 8° of *H.* 6. and confirmed there by the Three Eſtates, and ſworn there immediately by the ſaid Council to be obſerved, the Eleventh is this, *Verbatim.* ITEM, **That in Benefices and Offices belonging to the Kings Diſpoſition, when that voiden thoo that hath ben Servants to the Kings Faver, or his Graundſire, or he to the King that now is, ſhall be preferred thereto, ſo that that there be found among hem Perſons able thereto.** And

* Rot *Parl.* 8 *H.* 6. Num. 27. *Coke's* 4th *Inſt.* 56.

three

three year after, among the * Articles (**pro Regni Commodo, For the Profit of the Kingdom**) brought by *John* Duke of *Bedford*, the King's first Uncle into *Parliament*, and there solemnly confirmed: this was one, *viz.* *That a Book be forthwith made of such Old Servants and Feeble, which had dispended their youths in the service of the King's Grandfather, his Father, or himself, to the Intent that such of them,* (I shall give you the very words of the Record) **Which are without any Livelyhood or** * **Guerdon, and so now in great Mischief and Necessity, and some but easily guerdoned, and not like to their Desert and Service, may when Offices, and Corrodies fall, have them conferr'd upon them, having Consideration to the hability of them, and to the time that they have served. And in the same wise of Benefices unto Clarkes.** And (if I may borrow an Example from a Neighbour-State) the great * *Henry the 4th of France* (his Majesties Grandfather) did by irrevocable (*a*) *Edict, grant large Donatives and Pensions to those Faithful Worthies which had been Wounded, or Beggered in his Service.* It seems to me these *Mighty Princes* did consider *Loyalty as a* Plant *that would not prosper so well, unless it were Watered a little at the Roots.* For, let us flatter our selves as we please, the *Frailties* of Humane Nature are not altogether to be neglected, *Seeing the great Empires of the World have been, and ever will be, gain'd and conserv'd by the just Applications of Reward and Punishment.* And it often fareth with *Vertue* abandon'd of *Recompence*, as with an *Un-endowed Beauty*; she may perhaps finde those which will *Flatter* and *Complement* Her, but few that will *Espouse*, or abide by Her in Extremities. Not to say, what yet I finde advised by

*Rot. *Parl.* 11 & 12 *H.* 6 Num. 18. Cokes 4 *b* *Inst.Fol.*56.

*Reward.

* *John de Serres in Vita H.* 4. Francie.

(*a*) 7 July 1606.

by a most Excellent * *King* to his Illustrious *Son*, viz. *That with an equal Eye, and Impartial Hand, he distribute Favours and Rewards to all men, as he findes them for their real Goodness, both in Abilities and Fidelity, worthy and capable of them: This will be sure* (saith he) *to gain you the Hearts of the Best, and the most too, who, though they be not Good themselves,* **yet are glad to see the severer ways of Vertue at any time sweetned by temporal Rewards.** Nay, do not the sacred *Scriptures* tell us, that the Heaven-Familiar *Moses*, **Did chuse rather to suffer Affliction**, &c. But why? **For he had respect to the Recompence of the Reward** (saith the Holy * Apostle). And (which is yet infinitely more, and I write it with that Reverence which becomes me) even the most Blessed *Jesus* himself, * **For the joy that was set before him, endured the Cross**, &c. (they are the very words of the Text) he endured the **Cross** then, but it was for the **Joy**, &c. And the Holy *Scriptures* (we know) were wrote for our Instruction, and Example; and (as * some have observed) every word thereof contains either *Mystery* or *Document*.

I hope no Body will think me so *Presumptuous* or *vain*, as here to prescribe *Examples* and *Presidents*. I know well, that when we have served *God* and the *King* with our *Lives* and *Fortunes*, *we are notwithstanding unprofitable servants, and have still done but our Duties*; And accursed be he that will not Dye at his Princes Feet, when Need may require, without Reservations. Onely this I shall say (and I write it with an humble Modesty) *That I hope We that have espoused (a fair and Vertuous, but yet) an Unendowed Loyalty, shall not be forc'd to* **Compound** *once more under our* **Friends**; *but that we shall be thought* **Now** *as worthy of enjoying our poor*

* Εἰκὼν Βασιλικὴ *Meditation* 27. *Advice to the Prince of* Wales.

* Heb. 11. 25, 26.

* Heb. 12. 2.

* *Marquess of* Malvezzi *on* Tacitus *Discourse* 19.

poor Remnants and Scraps of Estate which the Sequestrators, &c. *have left Us, as the said* Loyalists *of former Ages were, of receiving their* Guerdons, Donatives *and* Rewards.

I do never without a secret *Exultation* of *Mind* consider this following *Memoire*, that I find of *Augustus Cæsar*: Upon the Defeat (saith my * Author) of *Mark Anthony* at the famous Battail of *Actium*, *Augustus* commenc'd *Emperor* of the *World*. Some few Years after, a certain *Old Soldier* (that in this Battail had done *Cæsar* good service) hapned to be impleaded for his *Life* before his *Imperial Majesty* and the *Senate*. The Soldier implores *Cæsar* (then present) to help him in this *Distress*. *Cæsar* recommended him to an able Advocate: the rough *Soldier* not contented with this, forthwith *rips* open his *Bosome*, and exposing to the view of the whole *Court*, the Marks of the *Wounds* which he had received at the said Battail of *Actium*: These Wounds (quoth he) O Cæsar, have I received on my mangled Body in thy Defence, and substituted no Deputy in my Place! *Augustus* hereupon (overwhelm'd with the *Passionateness* of the *Adventure*) presently *stood* up, and pleaded the *Soldiers Cause* himself, and carried it. An Action certainly well beseeming an *Emperor* of the *World*! And are there not many wretched Persons concerned now with the *Bankers*, whose *Fathers*, *Husbands*, *Children*, and other *Relations* have asserted the *Crown* of *England* with their dearest *Lives* and *Fortunes*? Nay, are not several of *that kind* surviving, which do yet bear in their *Miserable Bodies*, the *Scars* and glorious Remarks of their *Loyalty*, received in the Battails (I do not say of *Actium*, but) of *Edge-Hill*, *Newberry*, *Nasby*, *Worcester*, *Marston-Moor*, and indeed where not? And shall we imagine that our *Cæsar* (a *Prince* of such eminent

* *Vita Octavii Augusti*, bound up in Plutarch's *Lives*.

eminent *Clemency* and *Juſtice*) will ſuffer theſe *Perſons* and their Families to languiſh and ſtarve for want of that which is their **Own**? and not be a Patron and *Advocate* for them in ſo *Juſt a Cauſe*?

I dare be confident his Majeſty is inexpreſſibly ſenſible of this *Calamity* which is fallen upon Us, and his Royal *Bowels* yern with *Compaſſion* towards us. Neither is the *Delay* of *Payment* hitherto (in purſuance of his * two latter Printed Declarations) any *Defect* in His *Majeſties* innate *Juſtice*, but an *Exereſcence* and unhappy *Superfetation* of the firſt pernicious Councel of Shutting the *Exchequer*. To think otherwiſe, were to blaſpheme the greateſt Sweetneſs of Nature in the World; And to prophane that Illuſtrious Prince, of whom no man ever yet form'd a Thought, but his Mind was preſently fil'd with the *Idea* of all that is *Great* and *Juſt*.

* *Declarations of* 2. Jan. 71. *And the* 11th *of* December 72.

There be ſome things which poſſibly I have *forgot*, and other things which I have, perhaps, induſtriouſly *Omitted*. If any Matter have fallen from me *inconſiderately*, (as in ſo long a *Diſcourſe* may eaſily happen) I do with unſpeakable *Humility* and *Proſtration* beg *Pardon*; requeſting this one *Favour*, *That no Perſon would haſtily cenſure me, or thoſe Worthy Perſons in my Condition, until they have firſt* **with all Circumſtances** *Repreſented Our Caſes to themſelves, as their Own; and then let them cenſure on, and ſpare Us not.*

Farther offering this ſhort *Argument* or *Dilemma* to their conſideration: *Either that which I have Aſſerted in this Diſcourſe is Law and Reaſon, or it is not.* **If it be Law and Reaſon,** I hope there is no **Engliſhman** but will be of Opinion, that this **Crying Debt** ought to be ſatisfied, **Either by** *OPENING THE EXCHEQUER*, (by which I mean a *Reſtoring* of all Mens Securities

ties to their Right of *Primogeniture*, and Priority of Payment, in purſuance of the *good Laws* of this Kingdom, and of his *Majeſties* Publique gracious and inviolable *Promiſes*, from which *Right* the ſaid Securities have been now for almoſt four years wrongfully *Diſenherited* (to ſay no more) by Debts and Charges of a *younger Birth*; Nay, and for twenty nine Kalendar-Moneths ſtop'd without any Warrant, whatſoever * *Publiquely* declared), Or *by ſome other fitting und Juſt Expedients.* If it be not Law and Reaſon, It will be but *Charity* in ſome Body (that hath a better Opinion of this Advice than I have at preſent) to rectifie my Errors and Miſtakes, and in a *ſober* and *generous* Way (for *Raillery* and *Quibling*, upon this Subject will do no wonders) to refute my Arguments.

* *De non apparentibus, & non exiſtentibus eadem eſt Ratio*

In the laſt place, I do here (with that Submiſſion that becomes me) ſolemnly enter my *Proteſtation*, That I have written *Nothing* in this *Treatiſe* but with a *Mind* at all times ready to *ſacrifice* the *Body* it dwells in, to the *Honour*, *Happineſs*, and *Safety* of my Gracious *Soveraign*, and my Dear *Countrey-Men*; *Nay, upon that Glorious Account, prepared always to ſuffer* More, *than* He *or* They *deſerve*, That adviſed His Majeſty to the Stopping the Exchequer.

Illud omnium maxime tenendum erit a Principe, ut Fortunis alienis temperatum *fuiſſe cognoſcatur: Nam citius* PARENTUM CÆDEM *Oblivioni dant Homines, quam* Fortunarum *ſuarum* Direptionem. Nic. Machiavelli Princeps, *Cap.* 17.

Conſilia callida, & audacia, primo fronte *Læta*, Tractatu *Dura*, Eventu *Triſtia*. Eraſmus *in* Epiſtolis.

His

His Majeſtie's Declaration to all His Loving Subjects, to preſerve Inviolable the Securities *by him given for* Moneys, *and the due Courſe of* Payments *thereupon in the Receipt of the* EXCHEQUER.

WHereas We are given to underſtand, That divers of Our Good and Loyal *Subjects*, *Goldſmiths*, and *Others*, who have Advanced to Us great Sums of *Money* for the Publick *Service*, which are ſufficiently ſecured unto them upon ſeveral Branches of Our *Revenue*, and other *Moneys* ariſing by ſeveral late Acts of Parliament, have upon occaſion taken from the late Attempt of the *Dutch Fleet*, and the falſe *Reports* ſpread thereof, been preſt in an unuſual manner, with many ſuddain *Demands* by their *Creditors*, for preſent *Payment*, through Fears and Apprehenſions; *Which may weaken the Credit of Our ſaid Subjects, who have been ſo uſeful to Us, Bring an undervalue on Our ſaid Securities, And in conſequence endanger the Publick Safety in this preſent Conjuncture:* We have therefore thought fit (as well for ſatisfying the Mindes of Our good Subjects, whoſe Fears ſo tranſported them to

call for their *Moneys* in ſuch a manner, as for the allaying ſuch Jealouſies and miſapprehenſions as may be taken up by thoſe concern'd in the ſaid *Securities*) to Declare, as We do hereby Declare, That as the *Courſe* of *Payments* in our *Exchequer* hath hitherto been punctual, and according to the due Order, even in this time of diſturbance and interruption of Payments amongſt Our *Subjects*; ſo Our ſtedfaſt reſolution for preſerving inviolable to all ſuch Our good Subjects, who have Lent or Advanced any Moneys for Our Service as aforeſaid, All and every the *Securities* and *Aſſignements* any ways made by Us for, and towards the Repayment and Satisfaction of the ſaid ſeveral ſums of Money. *And that We will not* Upon any Occaſion whatſoever *permit or ſuffer any Alteration, Antiripation, or Interruption to be made of our ſaid Subjects Securities; but that they ſhall from time to time receive the Moneys ſo ſecured unto them, in the ſame Courſe and Method, as they were charged, and ought to be ſatisfied.* Which Reſolution We ſhall likewiſe hold firm and Sacred, in all future Aſſignments and Securities, to be by Us Granted upon any other Advance of Money, by any of Our Subjects, upon any future Occaſion for Our Service. And We cannot doubt upon the publiſhing this Our Royal Word and *Declaration* of Our

Our Sincere Intention, but that all reaſonable perſons will reſt ſatisfied that their Fears were cauſeleſs, and their reſpective Intereſts in no Danger at all; and that no evil can happen to them on this Occaſion, ſince the Securities by Us to them given being inviolable, We doubt not but that Our ſaid Subjects will ſatisfie every Perſon both their *Principal* and *Intereſt*, as they have formerly done with untainted *Reputation*. And of this Our *Declaration* We ſtraitly Charge and Command Our High-Chancellor of *England*, the Lords Commiſſioners of Our Treaſury, the Chancellor, and Under-Treaſurer of Our *Exchequer*, and all other Our Officers and Miniſters whatſoever, whom it doth or may concern, to take notice, and duely to obſerve the ſame, as they will be Anſwerable to Us at their utmoſt Perils.

Given at our Court at White-hall, *this* 18th *day of* June 1667. *and in the Nineteenth Year of Our Reign.*

At the Court at *WHITEHALL*. *January* 2. 167½.

His *Majesties Declaration* in *Councel* concerning the *Stop* of Payments out of the *Exchequer*, &c.

HIS Majesty having this day Ordered the Lords, and others of His Privy Council to attend Him in Council, is pleased to declare, **That seeing all the Princes, and States, His Neighbours, were making great preparations for War, both by Sea and Land; His Majesty, for the safety of His Government and People, look'd upon Himself as obliged to make such Preparations as might be proportionable for the Protection both of the one and the other;** And to that end he has already given Orders for the fitting and preparing a very considerable Fleet, to be ready against the Spring.

By this inevitable necessity, His Majesty considering the great Charges that must attend such Preparations, and after His serious debates and best considerations, not finding any possibility to defray such unusual Expences by the usual ways and means of borrowing Moneys, by reason His Revenues were so anticipated and engaged, He was necessitated (contrary to His own inclinations

inclinations) upon theſe Emergencies, and for the Publick Safety, at the preſent, to cauſe a Stop to be made of the payment of any Moneys, now being, or to be brought into His Exchequer, for the ſpace of one whole Year, ending the laſt day of December next, unto any Perſon or Perſons whatſoever, by vertue of any Warrant, Securities, or Orders, whether Regiſtred, or not Regiſtred therein, and payable within that time; Excepting only ſuch payments as ſhall grow due upon Orders on the Subſidy, according to the Act of Parliament, and Orders and Securities upon the Fee-Farm Rents; both which are to be proceeded upon as if this Stop had never been made.

And that His Majeſties Pleaſure and Declaration may be ſpeedily and effectually put in Execution, His Majeſty doth Order, and doth thereby require and command Sir *Heneage Finch* Knight and Baronet, His Attorney General, forthwith to prepare a Bill for His Royal Signature, and ſo to paſs the Great Seal; thereby requiring and commanding the Lords Commiſſioners of His Treaſury, immediately to order and direct all and every the Officers of His Majeſties Exchequer, to *Poſt-pone* all Warrants and Orders, whether Regiſtred or not Regiſtred, and other Securities and Payments whatſoever (except as before excep-

ted) until the laſt day of *December* next.

And in the mean time, the Lords Commiſſioners of his Treaſury to be Required and Authorized, to cauſe payment to be made of the Intereſt that is or ſhall grow due, at the rate of Six pounds *per Cent.* unto every perſon that ſhall have Money due to him or them upon ſuch Warrants, Orders, or Securities, ſo *Poſt-pon'd* and deferr'd; and that the payment of ſuch Intereſt may be juſtly made, the Lords Commiſſioners of His Treaſury are to be Authorized and Required, to cauſe the Debt of every particular perſon, and the ſaid Intereſt thereof, to be truly ſtated.

And the Lords of His Majeſties Treaſury are farther to be Ordered and Required, to employ and diſpoſe of all the ſaid Moneys, ſo ſtop'd and detain'd, for the preparing, ſetting forth, and payment of His Majeſties Fleet, and other Publick Services, in order to the preſervation and ſafety of His Majeſties Government, and defence of His People, as His Majeſty ſhall from time to time Order and Direct.

And His Majeſty, as far as in him lies, to take away all apprehenſions or terrour, that might poſſeſs any of His Subjects ſpirits, doth declare, That no perſon whatſoever ſhall be defrauded of any thing that is juſtly due to him, nor ſhall this reſtraint, which his Majeſty has been compelled

(not being able for the preſent to find any other expedient) to lay upon ſuch Monies, as are or ſhall be paid into His Exchequer, continue longer than the aforeſaid laſt day of December; and that then no new Warrants, Orders or Securities ſhall intervene, to break the courſe of ſuch Payments.

And His Majeſty is graciouſly pleaſed farther to declare, That nothing could have urged His Majeſty to an Act of this Nature, but ſuch a conjuncture of Affairs, when all the Neighbouring Princes and States were making ſuch Threatning preparations, that his Government could not be ſafe without appearing in the ſame poſture.

EDWARD WALKER.

A true Copy of a **Proclamation** ſent all over *England* by King *Edw.* 4th, for the **Payment of all Debts** by Him owing to His Subjects; as it is entred upon Record in *Clauſe de* An. 13. *Edw.* 4*th*. *M.* 3. *Dorſo.* in the *Tower* of LONDON.

De Proclamationibus.

REX Vic. *Norff.* & *Suff.* Salutem. Precipimus tibi firmiter injungentes quod ante feſtum Paſche prox. futur. in qualt. villa Mercatoria infra Ballivam tuam, utriuſq; Com. prædicti Publicas Proclamationes ex parte noſtra fieri fac. in forma ſequenti. The Kyng our Sowereigne Lord, wyllyng and entendyng to ſatisfie and content all ſuch ſomes of Money as of right he oweth to any of his Subgietts, chargeth and Commandeth, that every Perſone and Perſones, hauyng any Patent, Taille, or Bille, made, rered, or Aſſigned before the firſt day of December in the 10*th*. Year of his Reign, for any ſome or ſomes of Money conteyned or ſpecified in any of the ſame, appear before the Barons of the Kyngs Eſchequer at Weſtminſter in his propre perſone, or by his Attourney or Serpaunt hauyng ſufficient auctorite of hym, afore the XVe. of Eſtur, which ſhall be in the Yere of our Lord God MCCCCLXXV^e, there to ſhewe and

Quinzisme.

prove

proue, that the ſomes of Money conteigned and ſpecified in his or their Patent, Taille, or Bille was by or upon any true grounde, or cauſe due by the Kyng, at the time of the making, reryng, or aſſignment of the ſaide Patent, Taille, or Bille, made, rered, or aſſigned to the ſame perſone or perſones named in the ſame Patent, Taille, or Bille, accordyng to an Ordenance by auctorite of this Preſent * Parliament thereof made, as in the ſame Ordenance more pleynly is conteigned. Et quando qualiter & quomodo Execucoem. preſentis Mandati noſtri feceris, Nos inde in Cancellar. nra. in quindena Paſche prox. futur. ubicunq; tunc fuer. reddas certiores, hoc Bre. nob. remittens. Et hoc ſub pena Centum librarum per te juxta dictam Ordinationem, ſi in premiſſis defeceris forisfiend. nullatenus omittas. T. Rege apud *Weſtm.* xxvii. die *Februarii*, per ipſum Regem, & de Dat. *&c.*

Rot. *Parl.* 13 or 14. *Edw.* 4. num. 56.

Conſimilia Bria. direct. Vicecomitibus, ſubſcr. in Com. ſubſcr. ſub eadem Dat. *videl.*

Midd.	*Devon*	*Derb.*	*Villa Sutht*
Eſſex	*Cornub*	*Ebor*	*Coventr*
Hertf.	*Wigorn*	*Cantebr*	*Briſtoll*
Surre.	*Glouc.*	*Hunt.*	*Cantuar*
Suſſex	SALOP	*Linc.*	*Norwic*
Kant	*Hereford*	*Bed.*	*Dounr*
Oxon	*Staff.*	*Buk.*	*Lincoln*
Berk	*Warw.*	*LONDON*	*Lanc.*
Suthf	*Leyc.*	*Civit. Ebor.*	
Wiltes	*Northt*	*Newcaſtel*	
Somerſ.	*Rotel.*	*Kyngeſton*	
Dorſ.	*Notyngh*	*ſup. Hull*	

The

The Poſtſcript to the Letter.

THus (Sir) I have (as you ſee, for the *Model* of my weak *Talent*) diſcoveted the *Enormity*, and pernicious *Influences* of this *Advice*. And according to the *Meanneſs* of my *Opticks*, have taken the *Height* and *Dimenſions* of this dreadful *Comet*, ſo *Portentous* in its *Tail of Conſequences*. I take *God* to witneſs, I have done this without the leaſt *Malice* or *Deſigne* againſt any man's Perſon, of what Degree or Quality ſoever. Indeed if any one ſhall come from behinde the *Curtain*, and with a *Bare* and open *Face* ſhall ſay, **I am the Man that gave this Advice**, That perſon I muſt confeſs (and only that perſon) hath not eſcap'd my *Animadverſions*, and from *Him* onely, and no Body elſe, I hope I can (with any reaſon) expect *Reproof*. And then let all *Mankinde* judge, whether of the two is more to be blamed, and whether hath ſhewed greater *Loyalty* to his *Soveraign*, He that hath led his *Prince* out of the Old *Via Regia*, or King's High-way, into *By* and *untroden Paths*, unknown to the *Law*, and to walk upon *Precipices*; or He that hath given an honeſt *Alarm*, or *Outery* of this evil *Dealing*. **Surely** (ſaith * *Rawleigh*) **that State is in no good condition, where the Juſtly Accuſed ſhall take Revenge upon the Juſt Accuſer, And where He that would ſave his Prince, muſt Ruine himſelf.**

* His Prerogative of Parliament.

The Lord-Treaſurer *Burleigh* (under whoſe **Old Engliſh Councels** this *Kingdom* Flouriſh'd, and became *Formidable* to all the World, and One perhaps that better underſtood the *Genius* and *Temper* of this *Nation* than this *Adviſer*) was uſed to tell his Queen, * *Madam* (ſaith he) **Wi[n] Hearts**

* *Cottoni poſthuma*, p. 313.

Hearts, and you'll be sure of Hands and Purses. And *Dion* (in (*a*) *Plutarch*) doth admonish the Son of King *Dionysius*, *That the* **Love** *of the* **Subject** (*obtained by Vertue and* **Justice**) *is the strongest Guard and Security of a Prince.* And to this accords a far greater Author, even that glorious *King* and *Martyr*, *Charles* the first of immortal Memory, who tells us in his incomparable * *Meditations*, **That the Hearts of Subjects are the best Ammunition, and greatest Treasure of a King.** Other *Revenues* of the *Crown*, consisting of goodly *Demeans*, *Customs*, and the like, may be impair'd by *Pensions*, and *Annuities*, and clearly alienated by *Grants*; but this *Revenue* alone of the Subjects *Love*, is obnoxious to no *Charge*, or *Incumbrance*; this *Treasure* can never be anticipated, this *Mine* never Exhausted. It is this *Love* (Sir) which *Obeys*, which *Suffers*, which *Gives*, which *Sticks* at Nothing; *And which hath always proved a stronger Wall and Defence to the Kings of* England, *than the Sea is to the Kingdom.* How to preserve and encrease it, no man knows better than his most Gracious *Majesty*; how to lose it all men know, and know it is lost by nothing sooner than by the countenancing of *Illegal Advices.* He was a Wise * *King* that said, **That the Throne was establish'd by Justice!** And † He was not inferiour to him, who not long since Admonish'd his most Illustrious Son, *That one of the main Hinges on which the Prosperity of a King moves, is the Administration of Civil Justice, to do which, there needs no other* Artifice *or Labour than* (saith he) *to allow the poor Subjects to enjoy the Fruits of their own Industry, and the benefit of those Laws to which themselves have Consented.*

(*a*) Vita *Dionis.*

* Εἰκὼν Βασιλικὴ *Meditation* 10. *in fine.*

* *Solomon* Prov. 16. 12.

† Εἰκὼν Βασιλικὴ *Meditation* 27. *to the Prince of* Wales.

The Great God of *Heaven* and *Earth*, and my own *Conscience* will be my *Compurgators* and Witnesses

neſſes, that whatever I have ſaid in *This Diſcourſe*, I have done it with a moſt *Ardent* and Paſſionate *Deſire* of the Honour and Proſperity of my dread *Soveraign*, and an unfeined Love to my dear *Countrymen*; and to raiſe and Enkindle (as well as I could) an Univerſal *Diſpoſition* in this *Kingdome* to finde out ſome fitting Expedient for the Satisfaction of this *Crying Debt*: That thereupon ſo conſiderable a part of this Nation (as are concern'd with the *Bankers*) may not be overwhelm'd with an inevitable *Ruine*, *And that the Preſent and Future Ages may have no colour to ſay*. That *In ſuch a Year ſo many thouſand Engliſh Families were Shipwrackt and deſtroyed, under the protection of the Common and Statute-Laws of their Countrey, and the Guaranty of three Publick Royal Declarations, and two Great Seals.*

I ſhall, probably, be thought (by ſome perſons) to have proſecuted this *Argument* with a warmer *Zeal* than became me, and to have Sallied out ſometimes, perhaps, into Extravagancy and Inconſideration: I can onely reply, That my * *Vouchers*, and * *Authorities* are generally ſo *Sacred* and *Inviolable*, that nothing (leſs than *Heaven*) can be more, And by me truly, and carefully *quoted*. That (as a Royal and Learned † Judge affirmeth) *to Publiſh the Law is no Sedition, or Offence*. That after my neareſt *Relations* have *Devoted*, and *Sacrificed* their *Perſons* and *Eſtates* to their *Allegeance* (part of which *Sufferings* I may with very good *Reaſon* call my *Own*) no Body, I hope, can with the leaſt Colour ſuppoſe, that I ſhould now *Degenerate* into a *Wilde* and *Sowre Fruit*. That the *Neceſſity* and *Want of a Man's Own, are Spurs ſharp and Invincible*. And Laſtly, that I have been *actuated* all along in this *Diſcourſe*, with no other *Impulſes* of *Minde*, than thoſe which looſen'd the

*RECORDS *of Parliament, &c. The Deeds, and Councels of Mighty Princes, and States, Lord-Chancellors, Judges, &c.*

† *Judge Jenkins in his Works, Pag. 195.*

the *Tongue* of the *Dumb* Son of King *Cræſus*, when he ſaw a *Souldier* ready to offer *Violence* to his *Father*, crying out, **It is the King!** At whoſe Royal *Feet* I am always ready upon *Occaſion* to lay down my *Life*, together with that poor *Mite*, or *Fragment* of *Eſtate*, which the *Sequeſtrators*, &c. and this *Adviſor*, have left me: Praying (in the *Scripture Language*) **That God would ſtrike thorough the Loins of all them that hate His Majeſty, but that upon his own Royal Head his Crown may for ever Flouriſh.** I am,

Sir,

Your moſt Affectionate

Servant,

THO. TURNOR.

FINIS.

ERRATA.

IN the Letter, p. 2. *in Margine*, Cok's 2. Inſt. 158. ibid. p. 6. l. 7. add *fame*. The *Date* of the firſt Letters Patents for Stopping the *Exchequer*, was 20th *January* 71. miſtaken here pag. 17 and 26. In pag. 53. l. 3. r. *Neceſſity and National Danger*. p. 104. l. 7. r. *Dominium*.

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